

United States District Court
District of Utah

Markus B. Zimmer
Clerk of Court

Louise S. York
Chief Deputy

February 15, 2005

In the matter of:

Jensen v. Summit Cnty

U.S. District Court Case Number: 2:02-CV-663-TC
USCA Court Case Number: 04-4052

On 02/14/05, pursuant to the Order of the U.S. Court of Appeals for the Tenth Circuit, the
Mandate in the above-cited case was filed and docketed.

Sincerely,

Markus B. Zimmer, Clerk

By: /S
Aaron Paskins
Appeal's Clerk

cc:
Judge Tena Campbell
Counsel of Record

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00663

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Stanley J. Preston, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Jami R. Brackin, Esq.
SUMMIT COUNTY ATTORNEY
60 N MAIN
PO BOX 128
COALVILLE, UT 84017
EMAIL

Mr. Joseph E Tesch, Esq.
TESCH GRAHAM PC
PO BOX 3390
PARK CITY, UT 84060-3390
EMAIL

RECEIVED

FILED

CLERK, U.S. DISTRICT COURT

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

RECEIVED CLERK
FEB 10 11:14
U.S. DISTRICT COURT

JOHN C. ROOKER - A6789
JAMES M. HUNNICUTT - A9341
ROOKER LATER & RAWLINS L.L.P.
215 SOUTH STATE STREET, SUITE 760
SALT LAKE CITY, UTAH 84111-2352
TELEPHONE: 801.534.0800
FACSIMILE: 801.534.1203
ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

POWERHOUSE DIESEL SERVICES, INC., A
CALIFORNIA CORPORATION,

PLAINTIFF,

v.

CITY OF SPRINGVILLE, A UTAH MUNICIPAL
CORPORATION, AND SPRINGVILLE POWER &
LIGHT, A DIVISION OF THE CITY OF
SPRINGVILLE,

DEFENDANTS.

CIVIL No. 2:02CV1113

SECOND AMENDED
SCHEDULING ORDER

THE HONORABLE BRUCE S. JENKINS

THE COURT having previously entered its Amended Scheduling Order in this matter,
the parties having stipulated to amend said Order, the parties having jointly moved to amend
said Order, and the Court finding the terms of the Second Amended Scheduling Order to be
appropriate under the circumstances, hereby receives the parties' stipulation as reflected herein
and ORDERS, ADJUDGES, and DECREES:

The Amended Scheduling Order shall continue in full force and effect, as modified by
the following:

1. Cutoff for Non-expert Discovery: The parties may take oral exam depositions
beyond the previously established discovery cutoff date.

26

1 2. Pretrial Order/Report: The parties shall submit a joint Pretrial Order/Report
2 identifying the issues for trial, a final witness list, use of deposition testimony, and exhibits as
3 per Fed. R. Civ. P. 26(a)(4), by May 16, 2005.

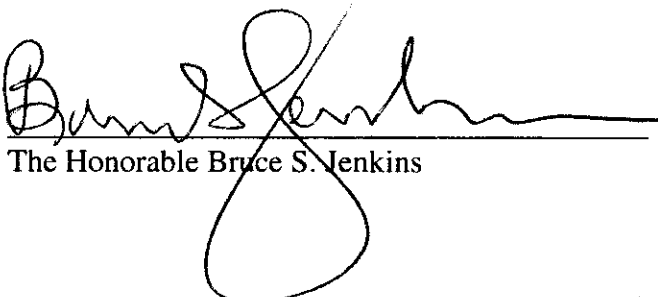
4
5 3. Final Pretrial Conference: The parties agree that they shall be ready for a final
6 pretrial conference after May 16, 2005. A final pretrial conference shall be conducted by the
7 court on the 19th day of May, 2005 at 9:30 a.m.

8
9 4. Readiness for Trial: The parties agree that this case should be ready for trial by
10 June 20, 2005.

11 All other terms of the Amended Scheduling Order shall remain in full force and effect.

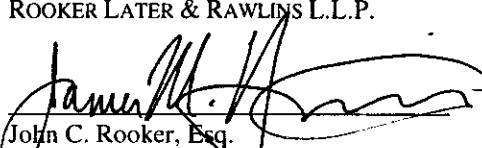
12 SO ORDERED this 14 day of February, 2005.

13 UNITED STATES DISTRICT COURT

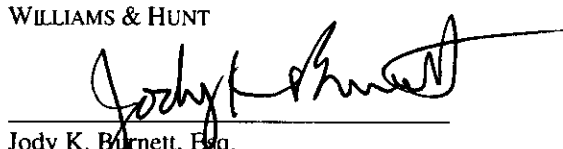
14
15
16
17
18 
The Honorable Bruce S. Jenkins

19 APPROVED AS TO
20 FORM & CONTENT:

21 ROOKER LATER & RAWLINS L.L.P.

22 
23 John C. Rooker, Esq.
24 James M. Hunnicutt, Esq.
Attorneys for Plaintiff

25 WILLIAMS & HUNT

26 
27 Jody K. Burnett, Esq.
28 Robert C. Keller, Esq.
Attorneys for Defendants

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01113

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Robert A. Huddleston, Esq.
LAW OFFICE OF ROBERT A. HUDDLESTON
500 YGNACIO VALLEY RD STE 490
WALNUT CREEK, CA 94596
EMAIL

John C. Rooker, Esq.
ROOKER LATER & RAWLINS LLP
215 S STATE STE 760
SALT LAKE CITY, UT 84111
EMAIL

Mr. Jody K Burnett, Esq.
WILLIAMS & HUNT
257 E 200 S STE 500
PO BOX 45678
SALT LAKE CITY, UT 84145-5678
EMAIL

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FILED

CLERK, U.S. DISTRICT COURT

FEB 10 2005

2005 FEB 14 A 11:14

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

DISTRICT OF UTAH

BY: RECEIVED CLERK

DEPUTY CLERK

FEB 10 2005

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

U.S. DISTRICT COURT

CHERYL C. KLAASS,

:

Plaintiff,

:

Court No. 2:04CV 755BSJ

vs.

:

JO ANNE B. BARNHART,
Commissioner of Social Security,

:

SCHEDULING ORDER

:

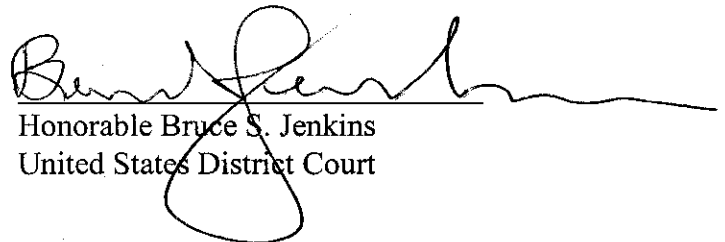
Honorable Bruce S. Jenkins

Defendant.

The Court establishes the following Scheduling Order:

1. The answer of the Defendant is on file.
 2. Plaintiff's brief should be filed on or before April 11, 2005.
 3. Defendant's response brief should be filed on or before May 11, 2005.
 4. Plaintiff may file a reply brief on or before May 25, 2005.
 5. Oral argument is set for June 3, 2005, at 1:30 p.m.
- DATED this 11 day of February, 2005.

BY THE COURT:


Honorable Bruce S. Jenkins
United States District Court

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00755

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Mr. Randy M Lish, Esq.
SALLENBACK & FACEMYER
3610 N UNIVERSITY AVE STE 375
PROVO, UT 84604
JFAX 8,801,7058480

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

FILED
CLERK U.S. DISTRICT COURT

2005 FEB 10 A 10:19

DISTRICT OF UTAH

BY: 
DEPUTY CLERK

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2005 JAN 24 P 2:45

U.S. DISTRICT COURT
DISTRICT OF UTAH

Michael N. Zundel (3755)
James A. Boevers (0371)
PRINCE, YEATES & GELDZAHLER
City Centre I, Suite 900
175 East 400 South
Salt Lake City, Utah 84111
Telephone: (801) 524-1000

RECEIVED

JAN 25 2005

U.S. DISTRICT COURT
DAVID SAM

Attorneys for Defendants Richard W.
Davis and R. W. Davis Construction, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD W. DAVIS and R. W. DAVIS
CONSTRUCTION, INC.,

Defendants.

FINAL JUDGMENT

Case No. 2:00CV 0995 DS

The Court has granted defendants' motion for summary judgment, in part, and dismissed all of plaintiff's claims except plaintiff's claim under Section 308 of the Clean Water Act. The Court has granted plaintiff's motion for summary judgment as to defendants' liability on plaintiff's Section 308 claim, and ordered defendants to pay a civil penalty in the amount of \$12,250.00 on that claim, which defendants have paid.

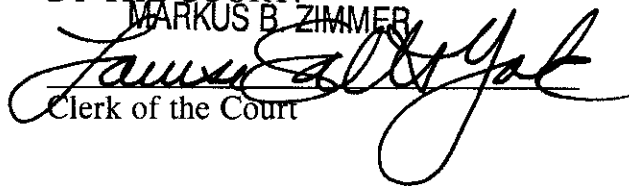
Therefore, pursuant to *Fed. R. Civ. P. 58(a)*, it is Ordered and Adjudged that this action is hereby dismissed with prejudice, each party to bear its own costs.

126

DATED this 10th day of February, 2005.

BY THE COURT:

MARKUS B. ZIMMER

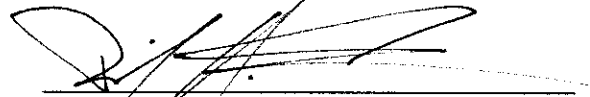

Clerk of the Court

APPROVED AS TO FORM:

THOMAS L. SANSONETTI

Assistant Attorney General

Environmental & Natural Resources Division



DAVID A. CARSON

United States Department of Justice

Environmental & Natural Resources Division

Suite 945 - North Tower, 999 18th Street

Denver, CO 80202

(303) 312-7309

ANDREW J. DOYLE

United States Department of Justice

Environmental & Natural Resources Division

Environmental Defense Section

P. O. Box 23986

L'Enfant Plaza Station

Washington, DC 20026-3986

(202) 514-4427

PAUL W. WARNER (3389)

DANIEL D. PRICE (2646)

U.S. Attorney's Office

District of Utah

185 South State Street, Suite 400

Salt Lake City, UT 84111

(801) 524-5682

ATTORNEYS FOR PLAINTIFF

PRINCE, YEATES
& GELDZAHLER

City Centre 1, Suite 900
175 East 400 South
Salt Lake City
Utah 84111
(801) 524-1000

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2005, I caused a true and correct copy of the foregoing **FINAL JUDGMENT** to be delivered as follows:

BY EXPRESS COURIER TO:

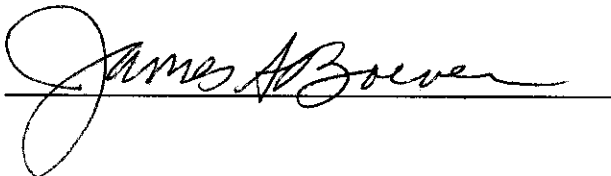
David A. Carson
U.S. Department of Justice
Suite 945 - North Tower
999 18th Street
Denver, CO 80202

BY FIRST CLASS MAIL, POSTAGE PREPAID, TO:

Wendy I. Silver
Enforcement Attorney
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
Region 8
999 18th Street - Suite 300
Mail Code 8ENF-L
Denver, CO 80202-2466

Daniel D. Price
Assistant U.S. Attorney
185 South State Street, #400
Salt Lake City, UT 84111

Andrew J. Doyle
Environment and Natural Resources
Defense Section
Post Office Box 23986
L'Enfant Plaza Station
Washington, D.C. 20026-3986



G:\Jab\Davis, Richard\Final Judgment.wpd

**PRINCE, YEATES
& GELDZAHLER**

City Centre I, Suite 900
175 East 400 South
Salt Lake City
Utah 84111
(801) 524-1000

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cv-00995

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Michael N. Zundel, Esq.
PRINCE YEATES & GELDZAHLER
175 E 400 S STE 900
SALT LAKE CITY, UT 84111
EMAIL

Daniel D. Price, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

David A. Carson, Esq.
US DEPARTMENT OF JUSTICE
ENVIRONMENTAL DEFENSE
999 18TH STREET STE 945
DENVER, CO 80202
EMAIL

Andrew J. Doyle, Esq.
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION
PO BOX 23986
WASHINGTON, DC 20026-3986

FILED
CLERK, U.S. DISTRICT COURT

James D. Garrett, #6091
GARRETT & GARRETT
2091 East 1300 South, Suite 201
Salt Lake City, Utah 84108
Telephone: (801) 581-1144

2005 FEB 14 P 1:56

CLERK, U.S. DISTRICT COURT
BY: [Signature]
CLERK, U.S. DISTRICT COURT

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FEB 11 2005

U.S. DISTRICT COURT

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

MIGUEL AVALOS-VASQUEZ and
FILBERTO ZUNIGA VALDOVINOS,
Defendants

ORDER FOR NEUROLOGICAL
PSYCHIATRIC EVALUATION

Case No.: 2:04CR00708JTG

Judge: J. Thomas Greene

Pursuant to the provision of Rule 12.2(c) of Federal Rules of Criminal Procedure, upon the Defendant's Motion and at Defendant's request, and pursuant to 18 U.S.C. § 424l(a) and 4242(a),

IT IS HEREBY ORDERED that a neurological psychiatric examination of Defendant be conducted, and that a neurological psychiatric report be filed with the Court, pursuant to the provisions of 18 U.S.C. §4247(b) and(c), by a licensed or certified neurological psychiatrist or neurological psychologist.

Copies of the Report shall also be provided to Defendant's attorney and the Assistant United States Attorney at the following addresses:

54

James D. Garrett
Attorney for Defendant Miguel Avalos-Vasquez
2091 East 1300 South
Salt Lake City, Utah 84108
Tel. (801) 581-1144
Fax: (801) 581-1168

Vernon Stejskal
Assistant United States Attorney
348 East South Temple
Salt Lake City, Utah 84111
Tel. (801) 524-4156
Fax. (801) 524-5803

Specifically, the report shall include: (1) The person's history and present symptoms; (2) A description of the neurological, psychiatric, psychological, and medical tests that were performed, and their results; (3) The examiner's findings; and (4) Whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense; and (5) The examiner's opinions as to the diagnosis, and whether or not the Defendant was insane or had diminished capacity at the time of the offense charged, as defined in 18 U.S.C. § 17(a).

IT IS ALSO ORDERED that Defendant is hereby committed to the custody of the Attorney General for a reasonable period of time, forthwith, to be transported by the United States Marshall.

IT IS FURTHER ORDERED, in accordance with the provisions of 18 U.S.C. §31619 (h)(1)(A), that the period of delay caused by the examination directed shall be excluded in computing the time within which trial in this matter must commence under the Speedy Trial Act.

DATED this 14th day of February, 2005.

BY THE COURT:



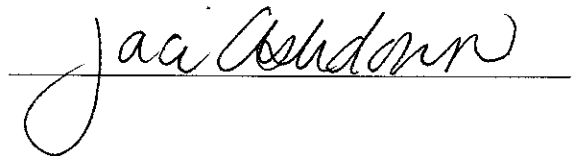
J. THOMAS GREEN
District Court Judge

CERTIFICATE OF MAILING

I hereby certify that on this 9 day of February, 2005, I mailed a true and correct copy of the foregoing ORDER FOR NEUROLOGICAL PSYCHIATRIC EVALUATION postage pre-paid to the following:

Vernon Stejskal
Drug Enforcement Administration
Metropolitan Narcotics Task Force
348 East South Temple
Salt Lake City, Utah 84111

Bel-Ami J. de Montreux
180 South 300 West, Ste. 290
Salt Lake City, Utah 84111

A handwritten signature in cursive script, reading "Jaci Ashdown", is written over a horizontal line.

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00708

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
29 S STATE ST #007
SALT LAKE CITY, UT 84111
EMAIL

Mr. James D. Garrett, Esq.
2091 E 1300 S STE 201
SALT LAKE CITY, UT 84108
EMAIL

Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

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FEB 11 2005

USDC UT Approved 6/10/00 Revised 01/20/04

2005 FEB 14 1:35

**United States District Court
District of Utah**

OFFICE OF JUDGE
J. THOMAS GREENE

**UNITED STATES OF AMERICA
vs. OSCAR DANIEL RIOS-TAPIA**

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Oscar Daniel Rios-Tapia

Case Number: **1:04-CR-000137-001 JTG**

Plaintiff Attorney: **Dustin Pead**

Defendant Attorney: **Robert Hunt**

Atty: CJA ___ Ret ___ FPD **X**

Defendant's Soc. Sec. No.: **NONE**

Defendant's Date of Birth: _____

02/03/2005

Date of Imposition of Sentence

Defendant's USM No.: **11824-081**

Defendant's Residence Address: _____

Defendant's Mailing Address: _____

Country **Mexico**

Country **Mexico**

THE DEFENDANT:

COP **10/28/2004** Verdict _____

☒ pleaded guilty to count(s)

One of the Indictment

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

Title & Section

8 USC § 1326

Nature of Offense

Reentry of Previously Removed Alien

Count

Number(s)

1

☐ The defendant has been found not guilty on count(s)

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

27 Months

Upon release from confinement, the defendant shall be placed on supervised release for a term of

36 Months

☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

19

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not re-enter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ NONE , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other:
-

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:
-

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

February 14, 2005

J. Thomas Greene
J. Thomas Greene
United States District Judge

Defendant: Oscar Daniel Rios-Tapia
Case Number: 1:04-CR-000137-001 JTG

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00137

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. William L Nixon, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

Robert K. Hunt, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

US Probation
DISTRICT OF UTAH

/
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

22

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00835

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John J. Borsos, Esq.
PO BOX 112347
SALT LAKE CITY, UT 84147-2347
EMAIL

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

FILED
CLERK U.S. DISTRICT COURT
2005 FEB 14 P 1:56

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**JUDGMENT IN A CRIMINAL CASE
RESENTENCING UPON SUPERVISED RELEASE VIOLATION**

UNITED STATES OF AMERICA

Case No. 2:98 CR 351 BJS

v.

Antonio Rojas-Delgado

Defendant

Carlos Garcia

Defendant's Attorney

Defendant's SSN/D.O.B.

Defendant's Mailing Address

Defendant's Residence Address

For a violation of 8 U.S.C. § 1326 as alleged in Count I of the Indictment, the defendant, Antonio Rojas-Delgado, was sentenced on October 19, 1998, to 46 months of confinement and 3 years of supervised release. Among the court-imposed conditions of supervised release are the following:

The defendant shall comply with standard terms and conditions of supervised release.

The defendant shall comply with special terms and conditions, to wit:

- A. If not deported:
 - 2. The defendant shall obey all federal, state, and local laws;
- B. If deported:
 - 1. The defendant shall not re-enter the United States illegally.

On December 20, 2004, a hearing was held concerning an allegation that the defendant had violated special conditions and standard conditions of his supervised release as follows:

- A. If not deported:
 - 1. The defendant shall obey all Federal, State, and local laws.
- B. If deported:
 - 1. The defendant shall not re-enter the United States illegally.

The defendant was present and was represented by counsel, Rob Hunt; Assistant United States Attorney Dustin Pead appeared on behalf of the United States. At the hearing, the defendant acknowledged the supervised release violation alleged in allegation no. 1 of the amended petition dated September 13, 2004, filed by the U.S. Probation Department. The United States moved to dismiss allegations 2 and 3. Based upon defendant's acknowledgment as to allegation no. 1, the Court so found. Sentencing was set for February 7, 2005.

At the February 7, 2005, hearing on sentencing, defendant was again present and was represented by counsel, Rob Hunt; Assistant United States Attorney Dustin Pead appeared on behalf of the United States. The Court reaffirmed its earlier finding.

- 1. The defendant illegally re-entered the United States and was found in Weber County, Utah, on or about August 18, 2004, all in violation of condition number 1.

SENTENCE

FOR HIS VIOLATION OF CONDITION NUMBER 1 OF HIS SUPERVISED RELEASE (ILLEGAL RE-ENTRY), THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE BUREAU OF PRISONS FOR A PERIOD OF EIGHT (8) MONTHS.

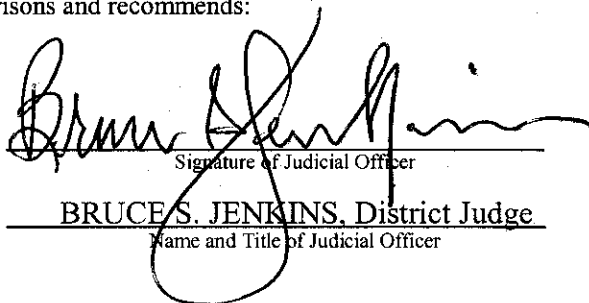
32

The Court orders commitment to the custody of the Bureau of Prisons and recommends:

February 7, 2005

Date of Imposition of Sentence

Date



Signature of Judicial Officer
BRUCE S. JENKINS, District Judge

Name and Title of Judicial Officer

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, the institution designated by the Attorney General, with a certified copy of this
Judgment in a Criminal Case.

United States Marshal

By: _____
Deputy Marshal

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:98-cr-00351

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

/
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

Dustin B. Pead, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

Reid Tateoka, Esq.
MCKAY BURTON & THURMAN
170 S MAIN STE 800
SALT LAKE CITY, UT 84101

EMAIL

Viviana Ramirez, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101

EMAIL

Carlos A. Garcia, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101

EMAIL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 14 PM 1:56
DIST. OF UTAH
BY: CLERK

WENDY JACOBSEN,

Plaintiff(s),

vs.

MORGAN STANLEY DEAN WITTER
& CO., et al.,

Defendant(s).

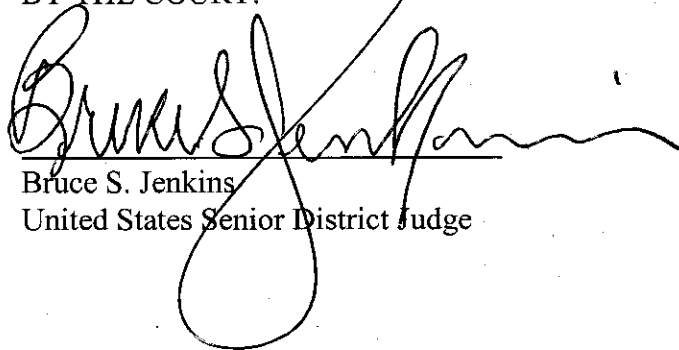
)
) Civil No. 2:04-CV-0282J
)
) **ORDER**
)
)
)
)
)
)

The Final Pretrial Conference which is set in the above matter for February 25, 2005, is hereby vacated, and is reset for Friday, March 25, 2005, at 1:30 p.m. The proposed final pretrial order will be due on March 23, 2005.

SO ORDERED.

DATED this 14 day of February, 2005.

BY THE COURT:


Bruce S. Jenkins
United States Senior District Judge

11

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00282

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Brian S King, Esq.
336 S 300 E STE 200
SALT LAKE CITY, UT 84111
EMAIL

Mr. Mark O. Morris, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

United States District Court
for the District of Utah

Petition and Order for Summons for Offender Under Supervision

Name of Offender: **John Hunter**

Docket Number:

2:97-CR-00382-001-J
& 2:98-CR-00196-001-J

Name of Sentencing Judicial Officer:

Honorable Bruce S. Jenkins
Senior United States District Judge

Date of Original Sentence: **October 16, 1998**

Original Offense: **Archeological Resource Protection Act Violation; Damaging Property of United States; Aiding and Abetting**

Original Sentence: **10 months BOP; 36 months supervised released**

Type of Supervision: **Supervised Release** Supervision Began: **August 12, 1999**

PETITIONING THE COURT

☒ To issue a summons 444 South 400 East
St. George, UT 84770

CAUSE

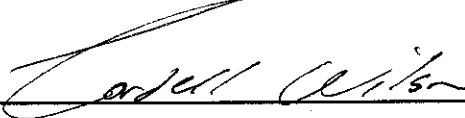
The probation officer believes that the offender has violated the conditions of supervision as follows:

Allegation No. 1: On or about January 14, 2005, the defendant used methamphetamine.

Allegation No. 2: On March 18, 2004, the defendant submitted a urine sample which tested positive for the presence of methamphetamine.

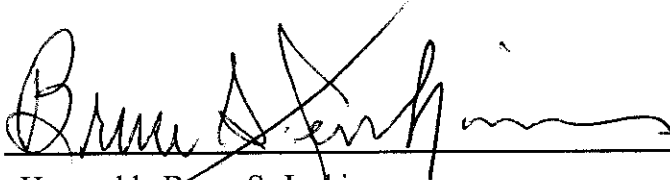
Allegation No. 3: The defendant failed to submit to urinalysis testing as directed by the United States Probation Office.

I declare under penalty of perjury that the foregoing is true and correct


Cordell Wilson, U.S. Probation Officer
Date: February 7, 2005

THE COURT ORDERS:

- ☒ The issuance of a summons
☐ The issuance of a warrant
☐ No action
☐ Other


Honorable Bruce S. Jenkins
Senior United States District Judge

Date: 2/11/05

179

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:97-cr-00382

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Wayne Dance, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States District Court
for the District of Utah

Petition and Order for Summons for Offender Under Supervision

Name of Offender: John Hunter

Docket Number:

Name of Sentencing Judicial Officer:

Honorable Bruce S. Jenkins
Senior United States District Judge

Date of Original Sentence: October 16, 1998

Original Offense: Archeological Resource Protection Act Violation; Damaging Property of United States; Aiding and Abetting

Original Sentence: 10 months BOP; 36 months supervised released

Type of Supervision: Supervised Release Supervision Began: August 12, 1999

PETITIONING THE COURT

[X] To issue a summons 444 South 400 East
St. George, UT 84770

CAUSE

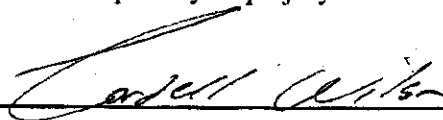
The probation officer believes that the offender has violated the conditions of supervision as follows:

Allegation No. 1: On or about January 14, 2005, the defendant used methamphetamine.

Allegation No. 2: On March 18, 2004, the defendant submitted a urine sample which tested positive for the presence of methamphetamine.

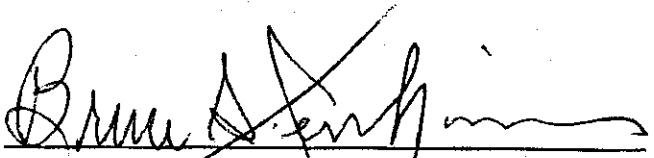
Allegation No. 3: The defendant failed to submit to urinalysis testing as directed by the United States Probation Office.

I declare under penalty of perjury that the foregoing is true and correct


Cordell Wilson, U.S. Probation Officer
Date: February 7, 2005

THE COURT ORDERS:

- [✓] The issuance of a summons
- [] The issuance of a warrant
- [] No action
- [] Other


Honorable Bruce S. Jenkins
Senior United States District Judge

Date:

2/11/05

86

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:98-cr-00198

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Wayne Dance, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 A 8:45

RECEIVED CLERK

FEB 11 2005

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Wendover City

Plaintiff

v.

West Wendover City, et al.

Defendant.

* CASE NO. 2:03-CV-523TS

* Appearing on behalf of:

* Defendant

* (Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Douglas R. Rands, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should ~~Petitioner~~ fail to respond to any Court order.

Date: Feb 11, 2005

(Signature of Local Counsel)

5225
(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Gary E. DiGrazia, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Douglas R. Rands as associate local counsel.

Date: FEB. 10, 2005

Check here if petitioner is lead counsel.

Gary E. DiGrazia
(Signature of Petitioner)

FEE PAID

Name of Petitioner: Gary E. DiGrazia

Office Telephone: (775) 738-8091

(Area Code and Main Office Number)

Business Address: Goicoechea, DiGrazia, Coyle & Stanton, Ltd.

530 Idaho Street
(Firm/Business Name)

Elko

NV

89801

Street

City

State

Zip

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
Supreme Court of Nevada	Carson City, Nevada	Sept. 18, 1974
U.S. District Ct., Dist of Nevada	Reno, Nevada	April 14, 1977
U.S. Ct. of Appeals, 9th Cir.	San Francisco, Calif.	Oct. 3, 1995
U.S. Ct. of Fed. Claims	Washington, D.C.	Oct. 1, 2002

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
None in last five years. (I believe that I was admitted in 1983, but I have no record of the case number or date of admission.)		

(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 14th day of January, 20 05.



U.S. District Judge

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00523

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Douglas R. Rands, Esq.
RANDS SOUTH GARDNER & HETEV
9498 DOUBLE R BLVD STE A
RENO, NV 89521

Gary E. DiGrazia, Esq.
GOICOECHEA & DIGRAZIA, LTD
530 Idaho Street
Elko, NV 89801

Mr. Harold G. Christensen, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 A 8:45

PAUL M. WARNER, United States Attorney (#3389)
BARBARA BEARNSON, Assistant United States Attorney (#3986)
Attorneys for the United States of America
185 South State Street, #400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Facsimile: (801) 524-6924

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,	:	1:03CR 0027 TS
	:	
Plaintiff,	:	ORDER EXTENDING TIME FOR
	:	RESPONSE TO MEMORANDUM
vs.	:	
	:	
KENNETH CHARLES ROGERS,	:	
	:	
Defendant.	:	

Based on motion of the United States and good cause appearing,

IT IS HEREBY ORDERED that United States' request for extension of time is granted and its memorandum in opposition to defendant's second motion to suppress shall be filed on or before February 17, 2005.

DATED this 14th day of February, 2005.

BY THE COURT


TED STEWART
United States District Judge

121

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cr-00027

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Michael J. Boyle, Esq.
BOYLE & DRAGE
2554 S MONROE BLVD
OGDEN, UT 84401
JFAX 8,801,3944923

Ms. Barbara Bearnson, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

JAMES A. VALDEZ, USB#3308
466 South 400 East Suite 102
Salt Lake City, Utah 84111
Telephone: (801) 328-3999
Facsimile: (802) 328-3998
E-mail: AbogadosincJV@netscape.net
Lawyer for Manuel Sepulveda-Soto

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 A 8:45

DISTRICT OF UTAH

BY: _____
DEPUTY RECEIVED CLERK

FEB 11 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EUTIMIO LOPEZ-RODRIGUEZ,
MANUEL SEPULVEDA-SOTO,
FAVIOLA LOPEZ-CHAVARIN,

Defendants.

)
) **ORDER STRIKING SUPPRESSION**
) **HEARING AND TO SET STATUS**
) **HEARING.**
)
)
)

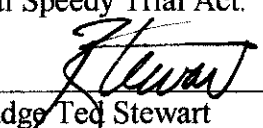
Case No. 2:04 CR 723 TS

Judge Stewart

Based upon defendant's motion and stipulation by all parties, and for good cause shown,

IT IS HEREBY ORDERED, that the suppression hearing now set for February 15, 2005,
is hereby continued without date and a status hearing is set for the 7th day of March, 2005,
at the hour of 3:00pm a.m./p.m.

IT IS FURTHER ORDERED, that based upon request and stipulation of all concerned
parties, the time period is excluded from calculation of Federal Speedy Trial Act.



Judge Ted Stewart
U.S. District Court

2/14/05



CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2005, a true and correct copy of the foregoing MOTION TO CONTINUE SUPPRESSION HEARING and proposed ORDER was placed in the United States mail, postage prepaid, addressed to:

VEDA M. TRAVIS
Assistant United States Attorney
185 South State Street, Suite 400
Salt Lake City, Utah 84111

SOLOMON J. CHACON
Attorney for Faviola Lopez-Chavarin
942 East 100 South
Salt Lake City, Utah 84102

A handwritten signature in black ink, appearing to be 'S. Chacon', is written over a horizontal line.

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00723

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jose A. Loayza, Esq.
7321 S STATE STE A
MIDVALE, UT 84047
EMAIL

Mr. James A Valdez, Esq.
466 S 400 E #102
SALT LAKE CITY, UT 84111
EMAIL

Mr. Solomon J. Chacon, Esq.
945 E 100 S
SALT LAKE CITY, UT 84102
JFAX 9,3644456

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED CLERK

2005 FEB 15 A 8:45
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION
U.S. DISTRICT COURT
DEPUTY CLERK

UNITED STATES OF AMERICA, : 2:04-CR-623TS
Plaintiff, :
vs. : ORDER GRANTING LEAVE OF
GUALBERTO ALVARADO-ORTIZ, : COURT TO FILE A DISMISSAL
Defendant. : OF THE INFORMATION

Based upon the motion of the United States of America, the Court hereby grants leave pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure to allow the United States Attorney to file a dismissal of the Information in the above-referenced matter.

IT IS SO ORDERED.

DATED this 14th day of February, 2005.

BY THE COURT:


TED STEWART
United States District Court Judge

51

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00623

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101

EMAIL

RICHARD P. MAURO (5402)
43 East 400 South
Salt Lake City, Utah 84111
(801) 363-9500
Attorney for Scott Erickson

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 A 8:45
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER OF CONTINUANCE
Plaintiff,	:	
v.	:	
SCOTT ERICKSON,	:	Case No. 2:04CR00820
Defendant.	:	JUDGE TED STEWART

Based upon the motion of the defendant, and finding good cause, the court grants the defendant's motion to continue. The court finds that the ends of justice served by granting this continuance outweigh the best interest of the public and defendant in a speedy trial. 18 U.S.C. § 3161(8)(A). Moreover, the court finds that the defendant's request for additional time is reasonable and justifies his motion for a continuance. The time period of the continuance shall be excluded in computing the time under the Speedy Trial Act. 18 U.S.C. § 3161.

Dated this 17th day of February, 2005.



THE HONORABLE TED STEWART
UNITED STATES DISTRICT COURT JUDGE

22

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order of Continuance was mailed, postage pre-paid, to Assistant United States Attorney Karin Fojtik, 185 South State Street, Suite 400, Salt Lake City, Utah 84111 this 10 day of February, 2005.



United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00820

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. Richard G MacDougall, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

Mr Richard P Mauro, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Max D. Wheeler (3439)
Stanley J. Preston (4119)
Maralyn M. Reger (8468)
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
P.O. Box 45000
Salt Lake City, Utah 84145
Telephone: (801) 521-9000
Facsimile: (801) 363-0400

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 P 12:05
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

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FEB 14 2005
U.S. DISTRICT COURT

R. Bruce Holcomb (*admitted pro hac vice*)
Jeffrey M. Johnson (*admitted pro hac vice*)
Milton A. Marquis (*admitted pro hac vice*)
David L. Engelhardt (*admitted pro hac vice*)
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037
Telephone: (202) 785-9700
Facsimile: (202) 887-0689

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

NOVELL, INC.,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

**ORDER GRANTING NOVELL'S
MOTION FOR LEAVE TO FILE AN
OVERLENGTH MEMORANDUM IN
OPPOSITION TO MICROSOFT'S
MOTION TO DISMISS**

Judge Ted Stewart

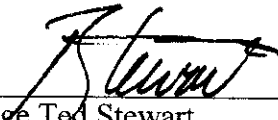
Civil No. 2:04-CV-01045-TS

13

Pursuant to District of Utah Civil Rule 7-1(e), Plaintiff Novell, Inc. is hereby granted leave to file an overlength memorandum in opposition to Microsoft's Motion to Dismiss not to exceed 33 pages, including an argument not to exceed 19 pages.

DATED this 15th day of February, 2005.

BY THE COURT



Judge Ted Stewart
United States District Court

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01045

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Max D Wheeler, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

R. Bruce Holcomb, Esq.
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L ST NW
WASHINGTON, DC 20037-1526
EMAIL

James S. Jardine, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

David B. Tulchin, Esq.
SULLIVAN & CROMWELL
125 BROAD ST
NEW YORK, NY 10005
EMAIL

Thomas W. Burt, Esq.
MICROSOFT CORPORATION
Bldg 8S/2077
ONE MICROSOFT WAY
REDMOND, WA 98052

Robert A. Rosenfeld, Esq.
HELLER EHRMAN WHITE & MCAULIFFE
333 BUSH ST
SAN FRANCISCO, CA 94104-2878
EMAIL

Joseph J. Reilly, Esq.
SULLIVAN & CROMWELL

1701 PENNSYLVANIA AVE NW
WASHINGTON, DC 20006

Kit A. Pierson, Esq.
HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K ST NW STE 300
WASHINGTON, DC 20006-1228

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED CLERK

2005 FEB 15 P 12:05

FEB 10 2005

IN THE UNITED STATES DISTRICT COURT U.S. DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SCOTT GUYMON REVILL

Defendants.

ORDER TO CONTINUE JURY
TRIAL

Case No.2:04CR 426 TS

Judge Ted Stewart

This matter is currently set for jury trial to commence on February 23, 2005, at 8:30 a.m. Scott Revill is represented by Todd Gardner and the United States is represented by Karin Fojtik.

IT IS FURTHER ORDERED: because of the complexity of the case and based on the stipulated motion to continue filed in this matter, the time between February 23, 2005, and the new trial date of May, 4, 2005, is excluded from the calculation under the Speedy Trial Act in order to grant defense counsel and the government sufficient time to prepare for trial. The Court finds

Ho

that the ends of justice are served by taking this action in that the issues underlying the charges against the defendants are complex as discussed in 18 U.S.C. § 3161(h)(8)(A). The Court finds that such a continuance is required for effective preparation taking into account the exercise of due diligence. The court further finds that this additional time outweighs the best interest of the public and the defendant in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(A).

DATED this 15th day of February, 2005.

BY THE COURT:



HON. TED STEWART
U.S. DISTRICT COURT JUDGE

jmr

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00426

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Todd D. Gardner, Esq.
BATEMAN GOODWIN & GARDNER
4120 S HIGHLAND DR STE 100
SALT LAKE CITY, UT 84124
JFAX 9,4243429

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

RECEIVED

United States District Court
for the District of Utah

FEB 14 2005

OFFICE OF
JUDICIAL SUPERVISION

Petition and Order for Warrant for Offender Under Supervision

Name of Offender: **CARLOS OCHOA-MEDINA**Docket Number: **2:01-CR-00244-001**Name of Sentencing Judicial Officer: **Honorable Tena Campbell**Date of Original Sentence: **September 4, 2001**Original Offense: **Illegal Entry of Deported Alien**Original Sentence: **24 months custody, 12 months supervision**Type of Supervision: **Supervised Release**Supervision Began: **March 5, 2004**

PETITIONING THE COURT

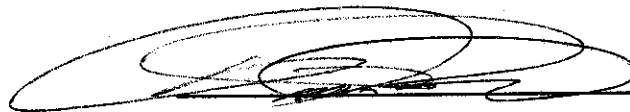
☒ To issue a warrant to be placed as a
detainer and toll the supervision termIn custody:
Salt Lake County ADC

CAUSE

The probation officer believes that the offender has violated the conditions of supervision as follows:

Allegation No. 1: The defendant illegally reentered the United States and was found in Salt Lake County, Utah, on or about January 31, 2005. No information has been received to indicate that the defendant had legal permission to enter the country.**Allegation No. 2:** On or about January 31, 2005, the defendant was arrested for committing the following offenses: Failure to Stop or Respond at the Command of Police; Driving under the Influence; Failure to Remain at the Scene of an Accident with Damage; False Personal Information to a Police Officer; Speeding; and Driving on a Denied License.

I declare under penalty of perjury that the foregoing is true and correct

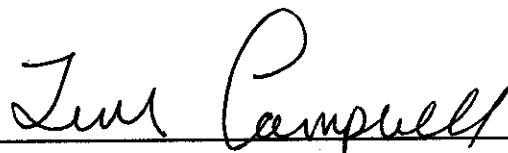


Karan D. Pace, Supervising U.S. Probation Officer

Date: February 9, 2005

THE COURT ORDERS:

- ☒ The issuance of a warrant to be placed as a
detainer and tolling of the supervision term
- ☐ No action
- ☐ Other

Honorable Tena Campbell
United States District JudgeDate: 2-14-2005

24

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cr-00244

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Richard N Lambert, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED

2005 FEB 14 P 2:34

PATRICK D. MIKESELL,

Plaintiff,

v.

HANK GALETKA et al.,

Defendants.

DISTRICT OF UTAH

BY: V

Case No. 05-01-CV-891 TC

O R D E R

Plaintiff, Patrick D. Mikesell, an inmate at the Utah State Prison, filed a pro se civil rights complaint under 42 U.S.C. § 1983. See 42 U.S.C.A. § 1983 (West 2003). On December 6, 2004, the Court lifted the stay in this case and directed Plaintiff to file amended discovery requests, if any, within fifteen days; and to file a response to Defendants' motion for summary judgment within sixty days.

On January 21, 2005, the Court received a letter from Plaintiff stating that he was unable to proceed with this case because some of his legal materials had been confiscated; Plaintiff's letter also requested that this case be voluntarily dismissed. In a previous letter to the Court, Plaintiff stated that he wished to have this case dismissed because he believed pursuing it further might jeopardize his chances for parole. To date, Plaintiff has not filed a proper motion to dismiss; nor has he filed any amended discovery requests or a response to Plaintiff's summary judgment motion.

54

The Court first addresses Plaintiff's allegations regarding confiscation of his legal materials. Absent a properly supported motion for injunctive relief showing that Defendants are preventing Plaintiff from litigating this case, the Court cannot resolve Plaintiff's allegations. Based on the vague and conclusory allegations in Plaintiff's letters, however, it is doubtful that Plaintiff could satisfy the rigorous standards for such relief. Alternatively, if Plaintiff wishes to pursue a claim for denial of access to the Courts he could do so by filing a new case.

Next, the Court addresses Plaintiff's request that this case be voluntarily dismissed. If Plaintiff wishes this case to be dismissed without prejudice he must file a proper motion with the Court and serve a copy of the motion upon Defendants. Plaintiff is warned that if his motion is granted he will still be required to pay the full filing fee in this case. Furthermore, under Federal Rule of Civil Procedure 41(d), if Plaintiff later "commences an action based upon or including the same claim[s] against the same defendant[s]," the Court will require Plaintiff to pay Defendants' costs in defending this action before allowing the new case to proceed. See Fed. R. Civ. P. 41(d).

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff shall either proceed with this case as directed in this Court's order of December 6, 2004, or else file a properly supported motion in accordance with this order within fifteen days. Failure to do so may result in this case being dismissed with prejudice under Rule 41(b). See Fed. R. Civ. P. 41(b).

DATED this 14th day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Nuffer', written over a horizontal line.

DAVID NUFFER
United States Magistrate Judge

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cv-00891

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Peggy E. Stone, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
LITIGATION UNIT
160 E 300 S 6TH FL
PO BOX 140856
SALT LAKE CITY, UT 84114-0856
EMAIL

Patrick D. Mikesell
UTAH STATE PRISON
#19056
PO BOX 250
DRAPER, UT 84020

Report and Order Terminating Probation
Prior to Original Expiration Date

UNITED STATES DISTRICT COURT

for the

DISTRICT OF UTAH

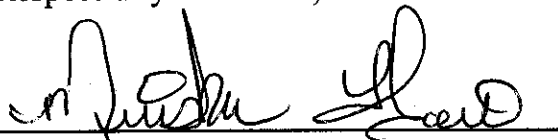
UNITED STATES OF AMERICA

v. Criminal No. 2:02-CR-00619-001-TC

ANN WOODWARD

On October 21, 2003, the defendant began a 24-month term of probation. The defendant has complied with the rules and regulations of probation and is deemed no longer in need of supervision. Accordingly, it is recommended that the defendant be discharged from probation.

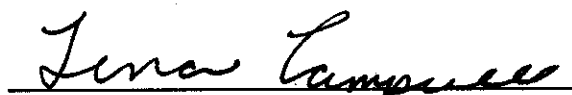
Respectfully submitted,



Meriska Holt
United States Probation Officer

Pursuant to the above report, it is ordered that the defendant be discharged from supervision and that the proceedings in the case be terminated.

Dated this 14 day of Feb, _____.



Honorable Tena Campbell
United States District Judge



FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 14 P 3:06
RECEIVED
BY: DEPUTY CLERK
FEB 11 2005
OFFICE OF
JUDGE TENA CAMPBELL

United States Probation Office
for the District of Utah

Request for Early Termination of Supervision

Name of Offender: **Ann Woodward**

Docket Number: **2:02-CR-00619-001-TC**

Name of Sentencing Judicial Officer: **Honorable Tena Campbell**
United States District Judge

Date of Original Sentence: **October 21, 2003**

Original Offense: **Distribution of a Listed Chemical**

Original Sentence: **24 Months Probation**

Type of Supervision: **Probation**

Supervision Began: **October 21, 2003**

RECEIVED
FEB 11 2005
OFFICE OF
JUDGE TENA CAMPBELL

SUPERVISION SUMMARY

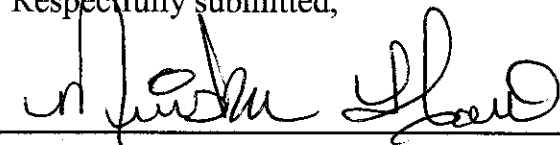
In behalf of the United States Probation Office in the Middle District of North Carolina, the probation office respectfully recommends early termination of the defendant's supervision. On October 21, 2003, the defendant was sentenced to 24 months probation after a guilty plea to Distribution of a Listed Chemical. The defendant was placed on probation with all standard conditions of release, including one special condition prohibiting her from selling and/or supplying iodine crystals or derivative thereof throughout her term of probation.

The defendant currently resides in Southern Pines, South Carolina, and is being supervised by the United States Probation Office in the Middle District of North Carolina. The defendant has paid her \$100 special assessment fee in full, reports as directed, and all criminal records checks have been negative.

If the Court desires more information or another course of action, please contact me at (801) 975-3400, extension 5000.

Respectfully submitted,

by



Meriska Holt
U.S. Probation Officer
November 1, 2004

Attachment

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00619

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States District Court
District of Utah

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 14 P 3:06

DISTRICT OF UTAH

UNITED STATES OF AMERICA

vs.

Armando Mascott-Hurtado
aka Armando Hurtado-Mascott

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **2:04-CR-00611-001-TC**

Plaintiff Attorney: **Leshia Lee-Dixon, AUSA**

Defendant Attorney: **Carlos Garcia, Esq.**

Atty: CJA ___ Ret ___ FPD **X**

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **11803-081**

Defendant's Residence Address:
Mexico

Country _____

02/09/2005

Date of Imposition of Sentence

Defendant's Mailing Address:
same

Country _____

THE DEFENDANT:

- ☒ pleaded guilty to count(s)
☐ pleaded nolo contendere to count(s)
which was accepted by the court.
☐ was found guilty on count(s)

COP **12/01/2004** Verdict _____

I of indictment

Title & Section

8 USC § 1326

Nature of Offense

Re-entry of a Previously Removed Alien

Count

Number(s)

I

Entered on docket

2-15-05 by:

[Signature]
District Clerk

- ☐ The defendant has been found not guilty on count(s) _____
☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of **30 months (to run concurrently with sentence imposed in case # 1:04-CR-162-TC).**

Upon release from confinement, the defendant shall be placed on supervised release for a term of **36 months**

- ☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

[Handwritten mark]

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not re-enter the United States illegally.
2. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No fine imposed.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in the state of California, preferably Terminal Island. The court further recommends defendant be given credit for time served and that he receive mental health or psychiatric counseling, as needed,

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2-14-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Armando Mascott-Hurtado
Case Number: 2:04-CR-00611-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00611

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

Carlos A. Garcia, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

US Probation
DISTRICT OF UTAH

/
EMAIL

United States District Court District of Utah

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 3:06

DISTRICT OF UTAH

UNITED STATES OF AMERICA

vs.

Armando Mascott-Hurtado

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:04-CR-00162-001-TC

Plaintiff Attorney: Leshia Lee-Dixon, AUSA

Defendant Attorney: Carlos Garcia, Esq.

Atty: CJA ___ Ret ___ FPD ☒

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: 11803-081

Defendant's Residence Address: _____

Mexico

Country _____

02/09/2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

same

Country _____

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP 01/26/2005 Verdict _____

Lof indictment

Title & Section

18 USC § 111

Nature of Offense

Assault on Federal Officer

Count

Number(s)

I

Entered on docket
2-15-05 by:

[Signature]
Clerk

☐ The defendant has been found not guilty on count(s)

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of **2 months (this sentence to run concurrently with sentence imposed in case #2:04-CR-00611-001-TC).**

Upon release from confinement, the defendant shall be placed on supervised release for a term of **0 months**

☐ The defendant is placed on Probation for a period of _____

18

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not re-enter the United States illegally.
2. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

☐ forthwith.

☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☒ other:

No fine imposed.

☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 25.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in California, preferably Terminal Island. The court further recommends defendant be given credit for time served and that he receive mental health or psychiatric counseling while incarcerated.

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2-14-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Armando Mascott-Hurtado
Case Number: 1:04-CR-00162-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00162

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Carlos A. Garcia, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 3:06

DISTRICT OF UTAH

United States District Court District of Utah

UNITED STATES OF AMERICA

vs.

Michael Ray Johnson

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

DEPUTY CLERK

Case Number: 2:04-CR-00452-001-TC

Plaintiff Attorney: Drew Yeates, SAUSA

Defendant Attorney: Jamie Zenger, Esq.

Atty: CJA ___ Ret ___ FPD ☒

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: 11729-081

Defendant's Residence Address: _____

Country _____

02/10/2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

same

Country _____

THE DEFENDANT:

- ☒ pleaded guilty to count(s)
- ☐ pleaded nolo contendere to count(s)
which was accepted by the court.
- ☐ was found guilty on count(s)

COP 12/01/2004 Verdict _____

II of indictment

Title & Section

18 USC § 922(g)(3)

Nature of Offense

Possession of a Firearm and Ammunition by an
Unlawful User of a Controlled Substance

Count

Number(s)

II

Entered on docket

2-15-05 by:

[Signature]
Deputy Clerk

- ☐ The defendant has been found not guilty on count(s) _____
- ☒ Count(s) I _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of _____

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____

- ☒ The defendant is placed on Probation for a period of 36 months
The defendant shall not illegally possess a controlled substance.

21

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall maintain full-time verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the probation office.
2. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing.
3. The defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan as directed by the USPO and shall not possess or consume alcohol during the court of treatment.
4. The defendant shall not use or possess alcohol.
5. The defendant shall his person, residence, office, or vehicle to a search, conducted by the USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
6. The defendant shall submit to the collection of a DNA sample at the direction of a USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ 500.00 , payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☒ other:
is due immediately, with minimum payments of \$50 per month.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:
- _____

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☐ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other: _____
- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
- ☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2-14-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Michael Ray Johnson
Case Number: 2:04-CR-00452-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00452

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Jonathan D. Yeates, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jamie Zenger, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

CLERK, U.S. DISTRICT COURT

RECEIVED CLERK

RECEIVED

2005 FEB 14 P 3: 06 FEB - 6 2005

FBI - 8 2335

DISTRICT OF UTAH U.S. DISTRICT COURT

BY: _____
DEPUTY CLERK

OFFICE OF
JUDGE TENA CAMPBELL

RANDALL L. SKEEN #2970
SHAWN H. ROBINSON #7295
Cook, Skeen & Robinson, L.L.C.
Attorney for Plaintiffs
5788 South 900 East
Salt Lake City, Utah 84121
Telephone: 266-7414
Facsimile: 892-5067

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KONG CHEANG; and DARIN BUN

Plaintiffs,

YS.

UNITED STATES OF AMERICA; and
JOHN DOES I THROUGH X

Defendants.

ORDER OF DISMISSAL

Case No. 2:04cv00277 TC

Based upon stipulation of the parties and good cause appearing,

IT IS HEREBY ORDERED that the above-entitled matter may be dismissed, with prejudice.

DATED this 14 day of January, 2005.

BY THE COURT:

Terre Campbell
U.S. DISTRICT COURT JUDGE

2:04CV00277 TC
ORDER OF DISMISSAL

APPROVED AS TO FORM:

A handwritten signature in cursive script, reading "Richard W. Daynes", written over a horizontal line.

RICHARD W. DAYNES

Assistant U. S. Attorney
Attorney for Defendant

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00277

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Randall L Skeen, Esq.
COOK SKEEN & ROBINSON
5788 S 900 E
SALT LAKE CITY, UT 84121-2178
EMAIL

Richard W. Daynes, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

United States District Court
for the District of Utah

RECEIVED

Request and Order to Amend Previous Petition

Name of Offender: **ELIAS ESCALANTE-BENCOMO** Docket Number: **2:97-CR-389-JC**

Name of Sentencing Judicial Officer: **Honorable Tena Campbell, U.S. District Judge**

Date of Original Sentence: **June 9, 1998**

Original Offense: **Illegal Re-Entry of a Deported Alien**

Original Sentence: **Commitment to Bureau of Prisons 70 months, 36 months supervised release**

Type of Supervision: **Supervised Release** Supervision Began: **December 17, 2002**

PETITIONING THE COURT

☒ To amend the petition signed on August 23, 2004 as follows:

CAUSE

Allegation No.1: The defendant illegally re-entered the United States and was found in Phoenix, Arizona, on or about August 14, 2004. No information has been received to indicate that the defendant had legal permission to enter the country.

Allegation No. 2: On or about August 14, 2004, in Phoenix, Arizona, the defendant stole Dc's and a mini pocket knife from Wal-Mart, and was subsequently charged with such on said date.

Allegation No. 3: The defendant illegally re-entered the United States and was found in Luna County, New Mexico, on or about January 7, 2005. No information has been received to indicate that the defendant had legal permission to enter the country.

Respectfully submitted,

by

Maria EA Sanchez
Maria EA Sanchez, U.S. Probation Officer

Date: February 14, 2005

THE COURT ORDERS:

- ☒ That the original petition be amended to include allegations as outlined
☐ No action
☐ Other

Tena Campbell
Honorable Tena Campbell
United States District Judge

Date: *2-14-2005*

Ute

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:97-cr-00389

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

STEVEN B. KILLPACK, Federal Defender (#1808)
HENRI SISNEROS, Assistant Federal Defender (#6653)
Utah Federal Defender Office
46 West 300 South, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010

OFFICE OF
JUDGE TENA CAMPBELL

RECEIVED CLERK
FEB 14 2005
U.S. DISTRICT COURT
FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 P 12:26
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ELIAS SALAZAR,

Defendant.

ORDER TO CONTINUE
JURY TRIAL

Case No. 2:04CR00819TC

Based upon the motion of the Defendant, ELIAS SALAZAR, through his attorney of record,
HENRI SISNEROS, the Court hereby continues the trial date currently set for March 8, 2005, in the
above-entitled matter to this 26th day of April, 2005, at 8:30 a.m.

Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161 (h)(8)(A), the Court finds that the ends
of justice served by a continuance in this case outweighs the interests of the public and the Defendant
in a speedy trial.

Dated this 14 day of Feb, 2005.

BY THE COURT:

Tena Campbell
TENA CAMPBELL
United States District Court Judge

17

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00819

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Henri R. Sisneros, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

MOSES NGATUVAI LEO,

Defendant.

ORDER TO CONTINUE
JURY TRIAL

Case No. 2:04CR838 TC

Based on the motion to continue trial filed by Defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the 3-day trial previously scheduled to begin February 23, 2005, is hereby continued to this 19th day of April, 2005, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the Defendant in a speedy trial. Accordingly, the time between the date of this order and the new trial date set forth in paragraph one above is excluded from speedy trial computation.

Dated this 14th day of February, 2005.

BY THE COURT:

Tena Campbell
HONORABLE TENA CAMPBELL
United States District Court Judge

20

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00838

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Jamie Zenger, Esq.
UTAH FEDERAL DEFENDER OFFICE
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SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED

2005 FEB 15 P 12:25 OFFICE OF
JUDGE TENA CAMPBELL
DISTRICT OF UTAH

BY: _____

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CLEARONE COMMUNICATIONS, INC.,
et al.,

Plaintiffs,

vs.

LUMBERMENS MUTUAL CASUALTY
COMPANY,

Defendant.

**ORDER OF DISMISSAL WITH
PREJUDICE PURSUANT TO FED. R.
CIV. PRO. RULE 41(a)(1)(ii) AS
BETWEEN CLEARONE
COMMUNICATIONS, INC., EDWARD
D. BAGLEY AND LUMBERMENS
MUTUAL CASUALTY COMPANY**

Master Consolidated
Case No. 2:04-CV-0119 TC

Judge Tena Campbell

The Court hereby orders that all claims in the Consolidated Case between and among ClearOne Communications, Inc. ("ClearOne"), Edward D. Bagley ("Bagley"), and Lumbermens Mutual Casualty Company, shall be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). Each party shall bear its own fees and costs. This Order does not apply to claims between ClearOne, Bagley and National Union Fire Insurance Company of Pittsburgh, Pennsylvania.

DATED this 15 day of February, 2005.

BY THE COURT:


HONORABLE TENA CAMPBELL
United States District Judge

134

CERTIFICATE OF SERVICE

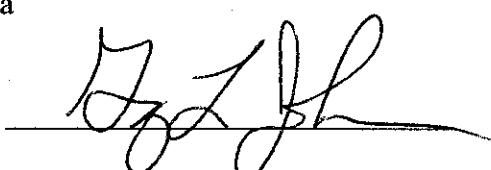
I HEREBY CERTIFY that a true and correct copy of the foregoing instrument was mailed, first-class, postage prepaid, on this 14th day of February, 2005, to the following:

Raymond J. Etcheverry
Kent O. Roche
PARSONS, BEHLE & LATIMER
201 S. Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84145
Attorneys for Defendant ClearOne Communications, Inc.

Jefferson W. Gross
BURBIDGE & MITCHELL
215 South State Street, Suite 920
Salt Lake City, UT 84111
Attorneys for Defendant Edward D. Bagley

Phillip S. Ferguson
CHRISTENSEN & JENSEN
50 South Main, Suite 1500
Salt Lake City, Utah 84144-0103
Attorneys for Defendant National Union Fire Insurance
Company of Pittsburgh, Pennsylvania

Thomas M. Sanford
LEWIS, BRISBOIS, BISGAARD & SMITH, LLP
100 Wall Street, Ninth Floor
New York, NY 10005-3701
Attorneys for Defendant National Union Fire Insurance
Company of Pittsburgh, Pennsylvania



United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00119

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Gary L Johnson, Esq.
RICHARDS BRANDT MILLER & NELSON
50 S MAIN ST STE 700
PO BOX 2465
SALT LAKE CITY, UT 84110
EMAIL

Sandra Tvarian Stevens, Esq.
WILEY REIN & FIELDING
1776 K ST NW
WASHINGTON, DC 20006
EMAIL

Mr. Raymond J Etcheverry, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

Mr. Richard D Burbidge, Esq.
BURBIDGE & MITCHELL
215 S ST ST STE 920
SALT LAKE CITY, UT 84111
EMAIL

Mr. Phillip S Ferguson, Esq.
CHRISTENSEN & JENSEN PC
50 S MAIN STE 1500
SALT LAKE CITY, UT 84144
EMAIL

Douglas R. Irvine, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 N FIGUEROA ST
LOS ANGELES, CA 90012-2601
EMAIL

Thomas M. Sanford, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP

199 WATER ST 25TH FL
NEW YORK, NY 10038

FEB 14 2005

2005 FEB 15 P 12: 26

RECEIVED CLERK

DISTRICT OF UTAH

BY: FEB 14 2005
DEPUTY CLERK
U.S. DISTRICT COURT

Judge Tena Campbell
Magistrate David Nuffer

103

IT IS HEREBY STIPULATED AND AGREED by undersigned counsel, subject to the approval of the Court that:

1. Scope: This Protective Order shall apply to all information, documents and things subject to discovery in this action produced either by a party or a non-party to the litigation in response to or in connection with any discovery conducted in this action and testimony adduced at depositions or hearings.

2. Definitions:

a. "Confidential." Discovery materials that have been maintained by the producing party or person as confidential and contain trade secret or other confidential information, including but not limited to, but not limited to, proprietary technology, research, design or development, manufacturing methods, capacities, financial information, marketing or sales information, pending patent applications, new products and business methods, buyer names, customer lists, and personnel data may be designated as "Confidential."

b. "Confidential Material." Material designated "Confidential" shall be referred to collectively as "Confidential Material."

3. Parties' Obligations in Designating Discovery Material as Confidential Material: No party or its lawyer(s) shall designate any discovery material as Confidential Material unless that party and its lawyer(s) have a good faith belief such discovery material meets the requirements for a protective order under Rule 26(c) and applicable federal law.

4. Designation of Confidentiality: Discovery materials may be designated Confidential Material in the following ways:

a. In the case of documents and the information contained therein, designations shall be made by means of the following legend placed on any such document: "Confidential."

b. In the case of interrogatory answers and requests to admit and the information contained therein, designation shall be made by means of a statement in each answer specifying the answer or part thereof designated as Confidential Material or by means of a statement at the conclusion of such answers specifying the answers or parts thereof designated as Confidential Material.

c. All testimony given at a deposition and each transcript of a deposition shall be presumptively treated as Confidential Material for a period of fourteen (14) calendar days following the deponent's counsel's receipt of the transcript of the deposition from the reporter. Within that fourteen (14) day period, counsel for any party or the deponent may designate certain pages of the transcript as Confidential Material by notifying counsel for each party and the deponent in writing of such pages. If no designation is made within that fourteen (14) day period, the transcript shall be considered not to contain Confidential Material.

5. Use of Confidential Material: Confidential Material may be used by the receiving person solely for the purpose of prosecuting and defending this action, and shall not be used for any business or other purpose whatsoever, whether directly or indirectly. Nothing contained in this Protective Order shall preclude a party or non-party from using or disseminating its own Confidential Material.

6. Disclosure of Information Designated "Confidential": Information designated "Confidential" shall not be made public or disclosed to anyone other than to the following persons:

a. In house and outside counsel actively involved in the above-entitled litigation, and paralegals, investigative, litigation support services, secretarial and clerical personnel, including outside copying services engaged in assisting counsel in the above-entitled action and to whom it is necessary that the materials be disclosed for purposes of this litigation. Should either party require the addition or substitution of counsel, this stipulated order shall be amended accordingly by agreement of counsel.

i. For Nashai, outside counsel shall mean the law firm of Morgan, Minnock Rice & James.

ii. For Banner, outside counsel shall mean the law firm of Van Cott, Bagley, Cornwall & McCarthy.

iii. For Nutraceutical, outside counsel shall mean the Tomsic Law Firm.

b. Officers, directors and employees of each party up to a maximum of five persons, provided that prior to such disclosure to such person, that person must execute an undertaking in the form attached as Exhibit A.

c. Any expert, and employees and assistants under the control of such expert (1) who is engaged by counsel in this litigation and (2) whose advice and consultations are being or intended to be used by a party hereto only in connection with this action to the extent necessary to perform work on this

litigation, provided that prior to such disclosure to such person, that person must execute an undertaking in the form attached as Exhibit A.

d. Any person who authored or previously received the particular Confidential information sought to be disclosed to that person.

e. Any interpreter, or court or other shorthand reporter or typist translating, recording or transcribing testimony.

f. The Court and Court personnel. Any discovery materials filed with the Court and identified as containing or disclosing Confidential Material shall be submitted under seal and the clerk of the Court is directed to maintain such material under seal.

7. Objections to Designation: The failure by any party to object to the designation of discovery material as Confidential Material at the time of its designation shall not be deemed a waiver of that party's right to challenge the propriety of such designation at any time thereafter. Should counsel object to the designation by a party of any discovery material as Confidential Material, counsel shall notify the designating party's counsel of the objections in writing, referring specifically to the discovery material objected to. Counsel shall promptly confer in an attempt to resolve the matter. If the matter remains unresolved, counsel designating the discovery material as Confidential Material may then apply to the Court for a determination of whether the designated material can properly be designated as Confidential Material under Rule 26(c) and applicable federal law. The designating party must file such a motion within twenty days after conferring with objecting counsel or the designation and right to designate relative to the discovery material at issue is waived and is no longer deemed

Confidential Material. The party making the designation of Confidential Material bears the burden of proving that it is in fact subject to protection as Confidential Material under Rule 26(c) and applicable federal law.

8. Preservation of Rights and Privileges: Nothing contained in this order shall affect the right, if any, of the party or non-party to make any other type of objection, claim, or other response to interrogatories, requests of production for documents and/or things, requests for admissions or any questions at deposition. Nor shall this order be construed as a waiver by any party or non-party of any legally cognizable privilege to withhold any discovery material or of any right that any party may have to assert such privilege at any stage of the proceedings. Nothing in this order shall limit the right of any person who receives discovery material designated as Confidential Material from using the material to the extent that the information (a) was in that recipient's possession prior to the time it was disclosed under this order; (b) is available to the public or becomes available to the public through no fault or omission of the recipient; or (c) is lawfully obtained by the recipient from a third party on a non-confidential basis.

9. Inadvertent Production: Inadvertent production of discovery material in this action shall not in itself be deemed to waive any claim of attorney-client privilege or attorney work-product protection that might exist with respect to such discovery material, or other information referred to therein. Except in the case of deposition testimony, the inadvertent disclosure of any Confidential Material by a producing party, without an appropriate designation, shall not be considered a waiver of any claim that the inadvertently disclosed material is entitled to protection under this order, if such

inadvertent or mistaken disclosure is brought to the attention of the receiving parties promptly after the producing party's discovery of such disclosure. In the event that privilege materials are inadvertently produced, the producing party shall notify all parties of the inadvertent disclosure and state with particularity the basis of the privilege. The receiving parties shall promptly either return or destroy all copies of the inadvertently produced discovery material, unless, the Court, upon motion, rules that such discovery material is not protected by the attorney-client privilege or work production doctrine.

10. Notice of Requested Disclosure: A party who contemplates disclosure of Confidential Material requested in a validly served subpoena, civil investigative demand, discovery procedure permitted under the Federal Rules of Civil Procedure or other formal discovery request shall give notice of such request in writing to the party that designated the materials as such, as soon as is reasonably possible, to permit the designating party an opportunity to appear and be heard in connection with any motion or request to a court to order production of such Confidential Material.

11. Return of Confidential Materials: Within thirty (30) calendar days after the conclusion of the above-entitled action, including, without limitation, any appeal or retrial, all Confidential Material, including any copies retained by the receiving counsel pursuant to Paragraph 10, shall be returned to counsel who produced it, or be destroyed, in which case the party destroying it shall certify that it has been destroyed, provided, however, outside counsel may retain one complete and unredacted set of deposition transcripts and pleadings and papers filed with the Court or served on the other party solely for reference in the event of, and only in the event of, further

proceedings of litigation between the parties, or a dispute over the use or dissemination of Confidential Material subject to the terms of this order.

12. Continuing Effect: Upon conclusion of the above-entitled action, the provisions of this Protective Order shall continue to be binding.

13. Effective Term: Prior to the trial of this matter, this order shall remain in force and effect until modified in writing, superseded or terminated by written consent of the parties or by order of the Court made upon reasonable written request. During trial, the Court shall determine what, if any, protective measures need to be put in place for discovery material designated as Confidential Material which are marked as trial exhibits.

IT IS SO STIPULATED:

Dated: 2/11/05


MORGAN, MINNOCK,
RICE & JAMES, L.C.


Dated: 2/11/05

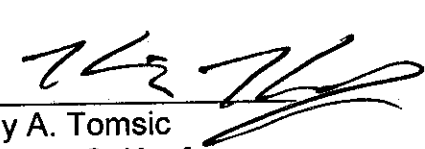
VAN COTT, BAGLEY,
CORNWALL &
MCCARTHY

Dated: 2/14/05

TOMSIC LAW FIRM, LLC

By: 
Dennis R. James
Michelle H. Christensen,
Attorneys for Defendant,
Nashai Biotech, LLC

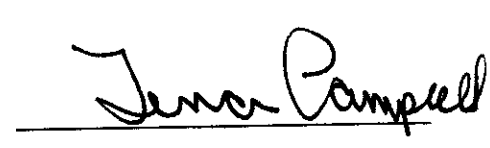
By: 
Scott M. Lilja
Attorneys for Defendant,
Banner Pharmacaps, Inc.

By: 
Peggy A. Tomsic
Kristopher S. Kaufman
Attorneys for Plaintiff,
Nutraceutical Corp.

IT IS SO ORDERED:

DATED: 2-15-2005

BY THE COURT:



Judge Tena Campbell
Magistrate Judge David Nuffer

EXHIBIT A

**AGREEMENT TO BE BOUND BY THE
STIPULATED PROTECTIVE ORDER**

I, the undersigned, hereby acknowledge that I have read the Stipulated Protective Order executed and entered into in the above-entitled action; that I understand the provisions prohibiting the disclosure or use of Confidential Material (as that term is defined therein), for any purpose or in any manner not connected with the prosecution or defense of this case, and that I agree to be bound by all provisions of the aforesaid Stipulated Protective Order. I understand that any Confidential Material I receive, any copies I make of any such material, and any other records or compilations that may be made regarding such information shall not be disclosed to others except as provided in the Stipulated Protective Order, and shall be returned at the conclusion of this litigation to counsel of record for the party that provided the Confidential material to me.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: _____

Signed: _____
Name (Print): _____
Company: _____

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00937

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ms. Peggy A Tomsic, Esq.
TOMSIC LAW FIRM LLC
136 E SO TEMPLE #800
SALT LAKE CITY, UT 84111
EMAIL

Mr. Dennis R James, Esq.
MORGAN MINNOCK RICE & JAMES
136 S MAIN STE 800
SALT LAKE CITY, UT 84101
EMAIL

Mr. Scott M Lilja, Esq.
VAN COTT BAGLEY CORNWALL & MCCARTHY
50 S MAIN STE 1600
PO BOX 45340
SALT LAKE CITY, UT 84145
EMAIL

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**CHECKLIST FOR FILING DOCUMENTS
UNDER SEAL**

HAVE YOU:

- ☐ Placed your document in an unfolded envelope with a copy of the cover page of the document affixed to the outside of the envelope.
- ☐ Placed a notation on the coverpage affixed to the outside of the envelope that the document is "SEALED."
- ☐ Prepared a copy for the Judge as noted above.
- ☐ Differentiated the documents as to "original" and/or "copy".

No document may be sealed unless accompanied by an order sealing the document, it is being filed in a case already under seal or it contains material under a protective order (if under a protective order, coverpage & document should be clearly marked: "CONFIDENTIAL, SUBJECT TO A COURT PROTECTIVE ORDER").

Unless otherwise ordered, the clerk will provide access to a sealed case or document only on court order.

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CLERK, U.S. DISTRICT COURT

FEB 14 2005

2005 FEB 15 P 12:25

IN THE UNITED STATES DISTRICT COURT
OFFICE OF
JUDGE TENA CAMPBELL
DISTRICT OF UTAH, CENTRAL DIVISION

RECEIVED CLERK

BY: FEB 14 2005
DEPUTY CLERK

U.S. DISTRICT COURT

Ashley Whitaker for and on behalf of herself
and all persons similarly situated,

Plaintiff,

vs.

The Law Offices of Bennett and DeLoney, P.C.,
a Utah professional corporation; Michael
Bennett; Richard H. DeLoney; John Doe
Owners 1-10; and John Doe Collectors 1-10.

Defendants.

**ORDER ALLOWING FOR LEAVE TO
FILE LENGTHY MEMORANDUM**

Civil No. 2:04-CV-00168

Judge Tena Campbell

Pursuant to Plaintiff's Motion for Leave to File Over Length Reply Memorandum, the Court
does now therefore,

ORDER that Plaintiff is given leave to file, in her Reply Memorandum to Defendant's
Response to Plaintiff's Motion for 1) Class Certification; 2) Appointment of Class Administrator;
3) Appointment of Class Counsel; 4) Approval of Class Notice; 5) Approval of Mailing of Class
Notice; and 6) An Order Requiring the Defendants to Identify the Class Members., a memorandum
containing a sixteen page argument section.

DATED this 14 day of February, 2005.

Tena Campbell

JUDGE TENA CAMPBELL

DISTRICT JUDGE

64

Order prepared by:

LESTER A. PERRY (2571)
HOOLE & KING
4276 South Highland Drive
Salt Lake City, Utah 84124

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2005, a copy of the foregoing pleading was sent by first class mail to:

Douglas G. Schneebeck
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
P.O. Box 2168
Bank of America Centre
500 Fourth Street, N.W., Suite 700
Albuquerque, NM 87103

John A. Anderson
David J. Jordan
STOEL RIVES, LLP.
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111

Attorneys for Defendants



L:\PERRY\DELONEY\whitaker\classreplybrief-ORD for OVM.wpd

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00168

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Lester A. Perry, Esq.
HOOLE & KING LC
4276 HIGHLAND DR
SALT LAKE CITY, UT 84124
EMAIL

Michael D. Kinkley, Esq.
4407 N DIVISION ST STE 914
SPOKANE, WA 99207
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O. Randolph Bragg, Esq.
HORWITZ HORWITZ & ASSOC
25 E WASHINGTON ST STE 900
CHICAGO, IL 60602
EMAIL

Douglas G. Schneebeck, Esq.
MODRALL SPERLING ROEHL HARRIS & SISK PA
500 FOURTH ST NW STE 1000
ALBUQUERQUE, NM 87102
EMAIL

Mr. John A. Anderson, Esq.
STOEL RIVES LLP
201 S MAIN ST STE 1100
SALT LAKE CITY, UT 84111-4904
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STEVEN B. KILLPACK, Federal Defender (#1808)
L. CLARK DONALDSON, Assistant Federal Defender (#4822)
Utah Federal Defender Office
Attorneys for Defendant
American Towers Plaza
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 1:37

RECEIVED

FEB 14 2005

OFFICE OF
JUDGE PAUL G. CASSELL RECEIVED CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FEB 11 2005

U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL JETER,

Defendant.

PROPOSED ORDER GRANTING
EXTENSION OF BRIEF CUT-OFF
DATE AND TO CONTINUE HEARING

Case No. 2:04CR00624PGC

Based on motion of defendant and good cause appearing;

IT IS HEREBY ORDERED that the defendant's motion to extend brief cut-off date and to continue scheduling conference is granted. Accordingly, the defendant's memorandum is due on March 18, 2005, and the scheduling conference is continued until the 17th day of March, 2005 at the hour of 2:30.

DATED this 14th day of February, 2005.

BY THE COURT:



PAUL G. CASSELL
United States District Court Judge

58

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00624

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

Lee C. Rasmussen, Esq.
RASMUSSEN MINER & ASSOCIATES
42 EXCHANGE PLACE
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

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FEB 11 2005

U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

RECEIVED
FILED
2005 FEB 15 P 12:26
DISTRICT OF UTAH
BY: MPBELL
DEPUTY CLERK

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

V.

TENFOLD CORPORATION, GARY D.
KENNEDY, ROBERT P. HUGHES, STANLEY
G. HANKS, AND WYNN K. CLAYTON,

Defendants.

Case No. 2:03-CV-00442 TC

**ORDER GRANTING JOINT MOTION
MODIFYING CERTAIN DEADLINES
IN SCHEDULING ORDER**

The parties have filed a joint motion seeking to modify certain deadlines in the October 10, 2003 Scheduling Order. There is good cause for granting the requested modifications.

IT IS THEREFORE ORDERED that the following modifications be made to the Scheduling Order:

Deadline	Current Date	New Date
Last date to take depositions of Samer Diab, Greg Ferrero, Joseph Hoffman, Ken Jennings, Kevin Johansen, Kathleen Krebs, Wade Loo, Charles Lynch, Lisa Mitrovich (or her replacement as the SEC's designated FRCP 30(b)(6) witness), Greg Randall, Rick Sherlund, Scott Vranes, the four defendants, and any "miscellaneous" witnesses selected on March 15, 2005 by the parties	February 28, 2005	April 29, 2005
FRCP 26(a)(2) initial expert reports due	March 30, 2005	May 20, 2005
FRCP 26(a)(2) rebuttal expert reports due	May 25, 2005	June 17, 2005
Last date of expert depositions	June 30, 2005	July 15, 2005
Last date of expert discovery	June 30, 2005	July 15, 2005

Last date to file dispositive motions	July 29, 2005	August 12, 2005
---------------------------------------	---------------	-----------------

Dated this 14 day of February, 2005.

BY THE COURT:



~~Brooke C. Wells~~
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2005, I caused to be sent, via the method indicated, a true and correct copy of the foregoing **ORDER GRANTING JOINT MOTION MODIFYING CERTAIN DEADLINES IN SCHEDULING ORDER**, to:

THOMAS M. PICCONE
THOMAS CARTER
LESLIE HENDRICKSON HUGHES
SECURITIES AND EXCHANGE COMMISSION
1801 California Street, Suite 1500
Denver, Colorado 80202-2656

Via U.S. Mail

THOMAS M. MELTON
SECURITIES AND EXCHANGE COMMISSION
50 South Main Street, Suite 500
Salt Lake City, Utah 84144

Via U.S. Mail

PERRIN R. LOVE
CLYDE SNOW SESSIONS & SWENSON
201 South Main Street, 13th Floor
Salt Lake City, Utah 84111

Via U.S. Mail

STUART L. GASNER
RACHAEL MENY
STEVE TAYLOR
KEKER & VAN NEST LLP
710 Sansome Street
San Francisco, California 94111

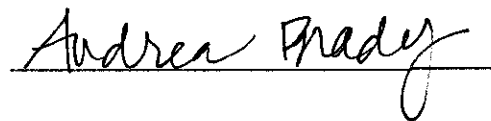
Via U.S. Mail

LAURENCE STORCH
IRVING M. POLLACK
DILWORTH PAXSON LLP
1818 N Street, NW, Suite 400
Washington, DC 20036

Via U.S. Mail

JAMES S. JARDINE
MARK W. PUGSLEY
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84125

Via U.S. Mail



United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00442

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

James S. Jardine, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Irving M. Pollack, Esq.
DILWORTH PAXSON LLP
1818 N ST NW STE 400
WASHINGTON, DC 20036
EMAIL

Mr. Michael L Larsen, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

Mr. Neil A. Kaplan, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
EMAIL

Stuart L. Gasner, Esq.
KEKER & VAN NEST LLP
710 SANSOME ST
SAN FRANCISCO, CA 94111
EMAIL

Darryl P. Rains, Esq.
MORRISON & FOERSTER LLP
425 MARKET ST
SAN FRANCISCO, CA 94105-2482
EMAIL

Mr. Thomas M Melton, Esq.

SECURITIES AND EXCHANGE COMMISSION
15 W SOUTH TEMPLE STE 1800
SALT LAKE CITY, UT 84101
EMAIL

Thomas M. Piccone, Esq.
SECURITIES AND EXCHANGE COMMISSION
1801 CALIFORNIA ST STE 1500
DENVER, CO 80202-2648
EMAIL

FILED
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION 2005 FEB 15 P 12:25

JUAN M. GARCIA Q. and ISABEL
VICTORINA MIGLIORE RAYO de
GARCIA,

Plaintiffs,

vs.

JERIL D. WINGET and CENTRE
MANAGEMENT, INC.,

Defendants.

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

ORDER

Case No. 2:99-CV-362 TC

A three-day trial in this case was set to begin on March 7, 2005. On February 14, 2005, the parties appeared for a final pre-trial conference. During the conference, counsel for Plaintiffs orally moved for a continuance of the trial date, explaining the reasons for such a motion. Defendants did not oppose the motion. For good cause shown, the Plaintiffs' motion for a continuance is GRANTED. However, no more motions for continuance are allowed.

The three-day trial is re-scheduled to begin September 26, 2005. A final pre-trial conference is scheduled for August 29, 2005, at 3:30 p.m. If the parties have not settled the case by time of trial and the Plaintiffs are not ready to go to trial on September 26, 2005, the court will dismiss the action for failure to prosecute.

IT IS SO ORDERED this 14 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Judge

43

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cv-00362

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John P Sampson, Esq.
2650 WASHINGTON BLVD STE 102
OGDEN, UT 84401
EMAIL

Mr. Kyle W Jones, Esq.
36 S ST STE 1200
SALT LAKE CITY, UT 84111
EMAIL

PAUL M. WARNER, United States Attorney (#3389)
RICHARD W. DAYNES, Assistant United States Attorney (#5686)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 14 2005
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

RECEIVED CLERK

FEB 11 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

RECEIVED

FEB 14 2005

UNITED STATES OF AMERICA

Plaintiff,

v.

WELDON ANGELOS, et al.,

Defendants.

2:02-CR-0708 PGC

OFFICE OF
JUDGE PAUL G. CASSELL

FINAL ORDER FOR FORFEITURE

Judge: Paul G. Cassell

Based on plaintiff's Motion for Final Order of Forfeiture and good cause appearing, the Court finds the following:

- Plaintiff has complied with notice and publication requirements by publishing the Notice of Forfeiture in a newspaper of general circulation for four consecutive weeks.
- No person or entity has filed a claim or petition, and time to do so has expired.

The assets subject to this forfeiture are identified as:

- 2001 Lexus GS 300 VIN: JT8BD69S310119889;
- Glock 10mm handgun;
- Glock 17 9mm handgun Serial #ELV214
- Ruger P85 9mm handgun Serial #304-10401; and
- Walther PPK .380 handgun

175

The assets identified above are forfeited to the United States, with all right, title, and interest vested in the United States, and any interest of any person or entity in said assets is forever barred.

Dated this 14th day of February, 2005

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. G. Casell', is written over a horizontal line.

PAUL G. CASSELL

District Court Judge

tsh

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00708

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Mr. Jerome H Mooney, Esq.
MOONEY LAW FIRM
50 W BROADWAY STE 100
SALT LAKE CITY, UT 84101
EMAIL

Robert A. Lund, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jeffrey B. Sklaroff, Esq.
GREENBERG TRAURIG LLP
200 PARK AVE 15TH FL
METLIFE BLDG
NEW YORK, NY 10166
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED

2005 FEB 15 P 12: 26

FEB 14 2005

ERIK STRINDBERG (Bar No. 4154)

LAUREN I. SCHOLNICK (Bar No. 7776)

RALPH E. CHAMNESS (Bar No. 6511) BY: _____

APRIL L. HOLLINGSWORTH (Bar No. 9391)

STRINDBERG SCHOLNICK & CHAMNESS, LLC

44 Exchange Place, Second Floor

Salt Lake City, Utah 84111

Telephone: 801-359-4169

Attorneys for Plaintiff

DISTRICT OF UTAH

OFFICE OF

JUDGE TENA CAMPBELL

DEPUTY CLERK

RECEIVED CLERK

FEB 11 2005

U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

**MARILYN TOUCHARD, THOMAS
AMMONS, FELIX BARELA, OSCAR
GARCIA, DENNIS NELSON, WADE
PETERSON, FRANK ROSS, HEIDI
SCOTT,**

Plaintiffs,

vs.

LA-Z-BOY INCORPORATED

Defendant.

**ORDER GRANTING PLAINTIFFS
ADDITIONAL TIME TO RESPOND TO
DEFENDANT'S MOTION FOR
JUDGMENT ON THE PLEADINGS**

Case No. 1-04-CV-67

Judge Tena Campbell

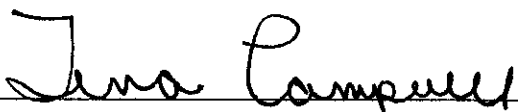
Based on the Stipulation and Joint Motion submitted by the Parties,

IT IS HEREBY ORDERED that Plaintiffs will have until Monday, February 14, 2005, to respond to Defendant's Motion for Judgment on the Pleadings.

26

DATED this 14 day of February, 2005.

By the Court



Honorable Judge Tena Campbell

Approved as to Form:



Lois Baar

Jathan Janove

Attorneys for Defendant

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00067

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Erik Strindberg, Esq.
STRINDBERG SCHOLNICK & CHAMNESS LLC
44 EXCHANGE PL 2ND FL
SALT LAKE CITY, UT 84111
EMAIL

Jathan W. Janove, Esq.
JANOVE BAAR ASSOC
9 EXCHANGE PL STE 1112
SALT LAKE CITY, UT 84111
EMAIL

RECEIVED

FILED FEB 14 2005
CLERK, U.S. DISTRICT COURT
OFFICE OF
2005 FEB 15 JUDGE TENA CAMPBELL

Erik Strindberg (Bar No. 4154)
Lauren I. Scholnick (Bar No. 7776) DISTRICT OF UTAH
Ralph E. Chamness (Bar No. 6511) BY: _____
April L. Hollingsworth (Bar No. 9391) DEPUTY CLERK
STRINDBERG SCHOLNICK & CHAMNESS, LLC
44 Exchange Place, Second Floor
Salt Lake City, Utah 84111
Telephone: 801-359-4169
Attorneys for Plaintiffs

RECEIVED CLERK
FEB 14 2005
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

MARILYN TOUCHARD, THOMAS
AMMONS, FELIX BARELA, OSCAR
GARCIA, DENNIS NELSON, WADE
PETERSON, FRANK ROSS and HEIDI
SCOTT,

Plaintiffs,

vs.

LA- Z- BOY INCORPORATED,

Defendant.

~~PROPOSED~~ ORDER ALLOWING
OVERLENGTH BRIEF

Case No. 1-04-CV-67

Judge Tena Campbell

Based on Plaintiffs' EX PARTE MOTION FOR ORDER ALLOWING

OVERLENGTH BRIEF and for good cause appearing therefore:

IT IS HEREBY ORDERED that Plaintiffs may file an overlength brief of fifteen (15)
pages in response to Defendant's Motion for Judgment on the Pleadings.

DATED this 15 day of February, 2005.

By the Court

Tena Campbell

Honorable Judge Tena Campbell

U:\current clients\La-Z-Boy\Order_Overlength_Brief.wpd

alt

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00067


True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Erik Strindberg, Esq.
STRINDBERG SCHOLNICK & CHAMNESS LLC
44 EXCHANGE PL 2ND FL
SALT LAKE CITY, UT 84111
EMAIL

Tracy H. Fowler (1106)
Angela Stander (9623)
SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Gateway Tower West
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

Brian J. Mooney, *Pro Hac Vice*
Kai Peters, *Pro Hac Vice*
GORDON & REES L.L.P.
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111
Telephone: (415) 986-5900
Facsimile: (415) 986-8054

*Attorneys for Defendants Abbott Laboratories and
Perclose, Inc.*

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 14 P 2:34
DISTRICT OF UTAH
BY: 
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

LARRY NEY,

Plaintiff,

vs.

ABBOTT LABORATORIES, a foreign
corporation, and PERCLOSE, INC., a
foreign corporation

Defendants.

ORDER GRANTING CONTINUANCE
OF ORAL ARGUMENT

Case No. 2:03CV00626 PGC

U.S. District Judge Paul G. Cassell

Magistrate Judge David Nuffer

Based upon the Motion for Continuance filed by Defendants Abbott Laboratories and Perclose, Inc., and the Stipulation entered into between counsel for Plaintiff and counsel for Defendants,

67

IT IS HEREBY ORDERED that oral argument on Plaintiff's Motion to Compel and Defendants' Motion for Protective Order is continued until a mutually agreeable date for counsel and the Court.

Counsel shall jointly telephone the Case Manager (801 524 6150) to arrange a date and time for the hearing.

DATED this 14 day of February, 2005.

BY THE COURT

A handwritten signature in black ink, appearing to read 'D. Nuffer', written over a horizontal line.

Honorable David Nuffer
Magistrate Judge

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00626

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Tracy Fowler, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Brian J. Mooney, Esq.
GORDON & REES LLP
EMBARCADERO CTR W
275 BATTERY ST 20TH FL
SAN FRANCISCO, CA 94111

Mr. Douglas B Cannon, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Dennis M. Gerl, Esq.
JOHNSON CLIFTON LARSON & CORSON PC
975 OAK ST STE 1050
EUGENE, OR 97401-3176
EMAIL

**United States District Court
for the District of Utah**

FILED
CLERK, U.S. DISTRICT COURT

**Request and Order for Modifying Conditions of Supervision
With Consent of the Offender**
(Waiver of hearing attached)

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Name of Offender: **Casey Lonnie Jacobsen**

Docket Number: **2:04 CR-00547-001 PGC**

Name of Sentencing Judicial Officer: **Honorable Paul G. Cassell**

Date of Original Sentence: **December 15, 2004**

Original Offense: **Unlawful Possession of Firearm**

Original Sentence: **1 day BOP/36 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision Began: **December 15, 2004**

PETITIONING THE COURT

☒ To modify the conditions of supervision as follows:

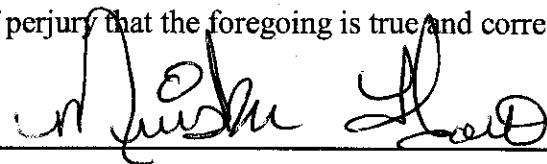
The defendant shall reside in a community treatment center for a period of up to 180 days, with work release, educational release, medical release, release to attend religious services, release to participate in treatment or other approved leave as deemed appropriate by the probation office or community treatment center.

CAUSE

On January 24, 2005, the defendant submitted a urine sample, which tested positive for amphetamine and methamphetamine. The defendant was verbally admonished, and no further action was taken because he had yet to begin substance abuse treatment. On January 31, 2005, and February 7, 2005, the defendant submitted urine samples, which tested positive for amphetamine and methamphetamine. On February 9, 2005, the defendant came into the office as directed to discuss his non-compliance.

The defendant has agreed to reside at the Cornell Community Corrections Center (CCC) as a control and correctional intervention. Placement at the CCC will provide the defendant with structure, accountability, and assistance in abstinence.

I declare under penalty of perjury that the foregoing is true and correct



Meriska Holt, United States Probation Officer
February 14, 2005

THE COURT ORDERS:

- ☒ The modification of conditions as noted above
☐ No action
☐ Other



Honorable Paul G. Cassell
United States District Judge

Date: 2/14/05

24

2005/FEB/11/FRI 10:00 AM CENTRAL SUPERVISION

FAX No. 8019753410

P. 002

PROB 49

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
PROBATION AND PRETRIAL SERVICES OFFICE**

**WAIVER OF RIGHT TO HEARING PRIOR TO
MODIFICATION OF CONDITIONS OF SUPERVISION**

I have been advised by United States Probation Officer that he/she has submitted a petition and report to the Court recommending that the Court modify the conditions of my supervision in Case No.. The modification would be:

The defendant shall reside in a community treatment center for a period of up to 180 days with work release, educational release, medical release, release to attend religious services, release to participate in treatment or other approved leave as deemed appropriate by the probation office or community treatment center.

I understand that should the Court so modify my conditions of supervision, I will be required to abide by the new condition(s) as well as all conditions previously imposed. I also understand the Court may issue a warrant and revoke supervision for a violation of the new condition(s) as well as those conditions previously imposed by the Court. I understand I have a right to a hearing on the petition and to prior notice of the date and time of the hearing. I understand that I have a right to the assistance of counsel at that hearing.

Understanding all of the above, I hereby waive the right to a hearing on the probation officer's petition, and to prior notice of such hearing. I have read or had read to me the above, and I fully understand it. I give full consent to the Court considering and acting upon the probation officer's petition to modify the conditions of my supervision without a hearing. I hereby affirmatively state that I do not request a hearing on said petition.



2/12/05

Date



Witness: Meriska Holt
United States Probation Officer

tsh

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00547

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 3:33

DISTRICT OF UTAH

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GREG ROY GROVER

Defendant.

ORDER DIRECTING
GOVERNMENT TO RESPOND AND
STRIKING DATES

Case No. 1:04-CR-00175PGC

The court has received the defendant's pleadings on the definition of "unlawful user." The court recognizes that the plea cut-off is currently set for February 23, 2005. At the same time, however, this issue is a complicated one, worthy of discussion. Accordingly, the court directs the government to file a response to the defendant's motion by March 3, 2005. The court set a hearing on this issue for March 18, 2005 at 3:00 p.m. **The plea cut off and trial date are stricken.** New dates will be set after the hearing. Because these delays are occasioned by the defense motions, the defense is directed to prepare a Speedy Trial Act exclusion order covering

15

the time between February 9, 2005 and the above-described hearing date.

DATED this 14th day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. G. Cassell', is written over a horizontal line.

Paul G. Cassell
United States District Judge

tsh

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00175

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Vanessa M. Ramos-Smith, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

United States District Court
District of Utah

2005 FEB 15 P 1:43

DISTRICT OF UTAH

UNITED STATES OF AMERICA

vs.

Richard Troy Vandam

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **1:04-CR-00095-001 DAK**

Plaintiff Attorney: **Kevin Sundwall, AUSA**

Defendant Attorney: **Richard Mauro**

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **11668-081**

Defendant's Residence Address: _____

Country **USA**

February 14, 2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

Same

Country **USA**

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **12/02/04** Verdict _____

2 of the Indictment.

Title & Section

18 U.S.C. §922(j)

Nature of Offense

Possession of a Stolen Firearm

Count

Number(s)

2

Entered on docket

2-15-05 by:

B. King
Deputy Clerk

☐ The defendant has been found not guilty on count(s)

☒ Count(s) **1** (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of **41 months.**

Upon release from confinement, the defendant shall be placed on supervised release for a term of **36 months.**

☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

30

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall submit to drug/alcohol testing as directed by the U.S. Probation Office and pay a one-time \$115 fee to partially defer the cost of collection and testing. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan, as directed by the U.S. Probation Office. The defendant shall not possess or consume alcohol during the course of treatment.
2. The defendant shall not use or possess alcohol.
3. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by a U.S. Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall resume monthly child support payments or any amount established by the Office of Recovery Services. The defendant shall keep current on these payments and attach a copy of said payment to his monthly report.
5. The defendant shall submit to the collection of a DNA sample at the direction of the Bureau of Prisons or the U.S. Probation Office.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed
-

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:
-

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☐ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ other:
-

- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
- ☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court does not grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2).

RECOMMENDATION

☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

That the defendant be sent to a facility in the Western region, preferably Englewood, CO and that he receive either vocational training or intensive drug treatment.

CUSTODY/SURRENDER

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.

☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

February 18, 2005

Dale A. Kimball

Dale A. Kimball

United States District Judge

Defendant: Richard Troy Vandam
Case Number: 1:04-CR-00095-001 DAK

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00095

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Kevin L. Sundwall, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr Richard P Mauro, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
MARKUS B. ZIMMER, CLERK

JACK FULKERSON
Plaintiff

v.

BARNHART
Defendant.

DEPUTY CLERK
CASE NO. 2:04 CV 225 DAK

Appearing on behalf of:

DEFENDANT
(Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Scott Patrick Bates, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

This 14th day of February, 2005.

6517
(Utah Bar Number)

[Signature]
(Signature of Local Counsel)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, WAYNE MICHAEL STANLEY, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that (he/she) is a member in good standing of the bar of a United States court or of the highest court of a state, is a non-resident of the State of Utah, and under the provisions of Rule 103-1(d) of the Rules of Practice of this Court has associated local counsel in this matter. Petitioner's residence address, office address, and office telephone number, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Scott Patrick Bates Wayne Michael Stanley as associate local counsel.

This 14th day of February, 2005.

[Signature] NO FEE REQUIRED
(Signature of Petitioner)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of Rule 103-1(b), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 15th day of February, 2005.

[Signature]
U.S. District Judge

(OVER)

19

ADDITIONAL INFORMATION

Name of Petitioner:

WAYNE MICHAEL STANLEY

Residence Address:

7035 TURWESTON LN, CASTLE ROCK, CO 80108
Street City State Zip

Business Address:

SOCIAL SECURITY ADMINISTRATION
(Firm/Business Name)1961 STOUT STREET, STE 1001A, DENVER, CO 80294
Street City State Zip

Office Telephone:

(303) 844-0015
(Area Code and Main Office Number)**BAR ADMISSION HISTORY**

COURTS TO WHICH ADMITTED

LOCATION

DATE OF ADMISSION

SUPREME COURT OFRALEIGH, NORTH CAROLINAAUGUST 1981NORTH CAROLINA

(If additional space is needed, attach separate sheet.)

ASSOCIATED LOCAL COUNSEL

Name:

Business Address:

(Firm or Business Name)

Street

City

State

Zip

P.O. Box

City

State

Zip

Office Telephone:

(Area Code and Main Office Number)

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00225

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John J. Borsos, Esq.
PO BOX 112347
SALT LAKE CITY, UT 84147-2347
EMAIL

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Wayne Michael Stanley, Esq.
SOCIAL SECURITY ADMINISTRATION
1961 STOUT ST STE 120
DENVER, CO 80294

Brian S. King, #4610
Attorney at Law
336 South 300 East, Suite 200
Salt Lake City, Utah 84111
Telephone: (801) 532-1739
Facsimile: (801) 532-1936

Attorney for Plaintiff

RECEIVED CLERK

2005 FEB 14 P 5:44

U.S. DISTRICT COURT
DISTRICT OF UTAH

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 P 12:11

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF UTAH, CENTRAL DIVISION

ORIGINAL

MICHAEL and LORI LENHART,
individually and as guardians of
JOSHUA LENHART,

Plaintiffs,

vs.

AIR AMERICA, INC., AIR AMERICA,
INC. MEDICAL BENEFITS PLAN, :
GREAT-WEST LIFE & ANNUITY :
INSURANCE CO., ONE HEALTH PLAN, :
INC., DARREL STEPHENS, and :
JOHN DOES I through V, :

Defendants.

Civil No. 2:03CV0429DAK

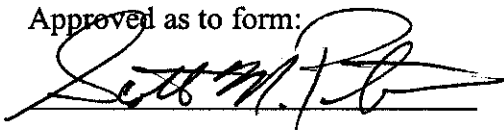
**ORDER FOR EXTENSION
OF TIME**

Based on the Stipulation of the parties and good cause appearing, it is hereby Ordered that
the time for Plaintiffs to respond to the pending Rule 12(c) Motion for Judgment on the
Pleadings shall be extended from February 14, 2005, to March 7, 2005.

DATED this 16th day of February, 2005.


Honorable Judge Dale A Kimball

Approved as to form:



54

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00429

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Allan O. Walsh, Esq.
MCKAY BURTON & THURMAN
170 S MAIN STE 800
SALT LAKE CITY, UT 84101
JFAX 9,5214252

Scott M. Petersen, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Mr. Brian S King, Esq.
336 S 300 E STE 200
SALT LAKE CITY, UT 84111
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 P 12:11

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Thomas M. Melton (4999)
Karen L. Martinez (7914)
Securities and Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, UT 84101
(801) 524-5796

RECEIVED CLERK

FEB 14 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

SECURITIES AND EXCHANGE COMMISSION
Plaintiff,

Civil No. 2:02 CV 0431 K

v.

4NEXCHANGE, a Utah limited liability company,
PAUL R. GRANT, and
RONALD K. BASSETT,
Defendants.

**PROPOSED
ORDER TO EXPAND
RECEIVERSHIP**

Judge Dale A. Kimball

WHEREAS this matter came before the Court on February 10, 2005 at 3:00 p.m. upon the Motion of the Plaintiff Securities and Exchange Commission ("Commission") to expand the receivership for the purpose of marshalling and preserving assets and to prevent the dissipation of assets in the above-captioned action. The Commission was represented by Thomas M. Melton and Karen L. Martinez. The Receiver, Robert G. Wing appeared on his own behalf. The third party, the L & F Trust, did not appear.

WHEREAS the Court has reviewed the pleadings and supporting documentation;

WHEREAS the assets attributable to L & F Trust are in danger of being dissipated, and it is appropriate that the assets be marshaled and an accounting provided to the Court;

283

WHEREAS this Court has jurisdiction over the subject matter of this action and over the L & F Trust, and venue properly lies in this district.

NOW THEREFORE:

I.

IT IS HEREBY ORDERED that, pending the determination of the Commission's action on the merits, or such other time as the Court may order, Robert G. Wing, Esq., be appointed Receiver of L & F Trust and of its assets. The Receiver shall take control of L & F Trust's funds, assets, claims and property wherever situated, with the powers set forth herein, including powers over all funds, assets, premises, choses in action, books, records, and other property belonging to or in the possession of the L & F Trust, and the Receiver is hereby authorized, empowered, and directed:

a. to have access to, to marshal and take control of all funds, assets, premises (whether owned, leased, occupied or otherwise controlled), choses in action, papers, books, records in whatever media, and other property, wherever located, belonging to, in the custody, control or possession of L& F Trust, with full power to take such steps as he deems necessary to secure such premises, funds and property;

b. to have control of, and to close, transfer or otherwise take possession of all accounts, securities, commodities positions, funds, or other assets of, or in the name of L& F Trust at any bank, brokerage firm or financial institution which has possession, custody or control of any assets or funds of L& F Trust, or of any assets deposited by customers or clients with L& F Trust, or into an account in the name of L& F Trust, or held in trust or deposited with L& F Trust or its agents or trustees, wherever situated;

c. to take such action as is necessary and appropriate to preserve and take control of, and to prevent the dissipation, concealment, or disposition of any assets in the possession, custody, name, or control of L& F Trust;

d. to hold in his possession, custody and control all assets, securities, commodities positions, monies and property, together with all profits, dividends, interest or other income attributable thereto, of whatever kind deposited by L& F Trust, with L& F Trust, or into an account in the name of L& F Trust, pending further order of this Court;

e. to make or authorize such payments and disbursements from the funds and assets under his control pursuant to this Order, and to incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary and advisable in discharging his duties as Receiver;

f. to engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, commodities traders, registered representatives, futures commission merchants, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;

g. to take possession, have access to, and to review all mail or any other communication, in any form, of L& F Trust or of its agents, officers and directors;

h. to take any action which he deems to be necessary and appropriate in order to cause L& F Trust to file a bankruptcy petition under any chapter of Title 11 of the United States Code, including the execution of all necessary corporate resolutions or directions. The Defendants or any other person affiliated with L& F Trust or purporting to act on behalf of

L& F Trust may not file a bankruptcy petition under any chapter of Title 11 of the United States Code on behalf of L& F Trust or under any analogous law of any other jurisdiction. In the event that a Bankruptcy petition is filed on behalf of L& F Trust, the bankruptcy reference shall be withdrawn with regard to payment of fees and expenses of the Receiver, his attorneys, accountants, consultants and any other person or entity hired to assist the Receiver in the execution of his duties pursuant to this Order, and this Court shall retain jurisdiction over the payment of such fees and expenses;

i. to make demand, file or otherwise handle any claim under any insurance policy held by or issued on behalf of L& F Trust, its officers, directors, agents, employees, trustees or other persons affiliated with L& F Trust and to take any and all appropriate steps in connection with such policies.

II.

IT IS FURTHER ORDERED that, in connection with the appointment of the Receiver provided for above:

a. L& F Trust and all officers, agents, servants, employees, attorneys-in-fact, shareholders, consultants, accountants, advisers, counsel and other persons, and Defendants in this action, who are in custody, possession, or control of any customer or client information, assets, books, records, or other property belonging to or in the custody or control of L& F Trust shall forthwith give access to and control of such property to the Receiver, and shall forthwith grant to the Receiver, or such other person whom the Receiver may designate, authorization to be the signatory as to all accounts at banks, brokerage firms, commodities

firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of L& F Trust.

b. The Receiver is authorized, empowered, and directed without further leave of the Court, to liquidate and convert into money all of the assets, property, estate, effects and interests of every nature held in his possession and control pursuant to this Order, by selling, conveying, and disposing of the property, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the persons or parties entitled to the proceeds, and with due regard to the realization of their true and proper value and to deposit such proceeds into a trust account, pending further order of the Court.

c. The Receiver is authorized to invest any and all money or proceeds in his possession and control in United States Treasury instruments or in a money market account that invests solely in United States Treasury instruments.

d. All banks, brokerage firms, commodities firms, financial institutions, and other business entities which have possession, custody or control of any assets, funds or accounts in the name of or for the benefit of L& F Trust shall cooperate expeditiously in the transfer of funds, other assets and accounts to the Receiver or at the direction of the Receiver.

e. All banks, brokers, dealers, commodities firms, futures commission merchants, depositories or any other financial institutions shall not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, commodities positions, funds, or accounts in the name of or for the benefit of L& F Trust except upon instructions from the Receiver or his designees.

f. The Receiver shall have the authority to issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure.

g. Defendants and their respective officers, agents, servants, employees, and attorneys-in-fact, consultants, accountants, advisers and counsel cooperate with and assist the Receiver, including, if deemed necessary by the Receiver, by appearing for deposition testimony and producing documents, and shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the Receiver in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the Receiver of the funds, assets, premises, and choses in action described above.

h. The Receiver shall not return to L& F Trust customers any securities, commodities positions, or other assets deposited with L& F Trust or into an account in the name of L& F Trust or any dividends, interest, or other income or profits earned thereon or the proceeds from the sale of any securities, commodities positions, or other assets without further Order of this Court.

i. The costs, fees and expenses of the Receiver incurred in connection with the performance of his duties described herein, including the costs and expenses of those persons who may be engaged or employed by the Receiver to assist him in carrying out his duties and obligations hereunder shall be paid out of the proceeds or other assets of L& F Trust, or any and all assets under the control of the Receiver pursuant to this Order. All applications for costs, fees and expenses for services rendered in connection with the Receiver shall be made by application setting forth in reasonable detail the nature of the services and shall be heard by the Court.

j. No bond shall be required in connection with the appointment of the Receiver. The Receiver and all other persons who may be engaged or employed by the Receiver to assist him in carrying out his duties and obligations hereunder shall not be liable for any act or omission of the Receiver or such person, respectively, or any of their partners, employees, or agents, unless it shall be proven that the Receiver or such other person acted or omitted to act willfully and in bad faith. This provision shall apply to claims based on conduct of the Receiver and all other persons who may be engaged or employed by the Receiver hereunder during the term of the appointment by this Court, even if such claims are filed after the termination of any such appointment.

III.

IT IS FURTHER ORDERED that, pending the determination of the Commission's action on the merits, representatives of the Receiver are authorized to have continuing access to inspect or copy any or all of the corporate books and records and other documents of L& F Trust, including records relating to any accounts maintained by or in the name of L& F Trust at a broker, dealer, futures commission merchant, financial institution, depository institution or any other entity, or of accounts maintained on behalf of L& F Trust's customers or clients that have transferred, transmitted or otherwise delivered any securities, monies, or property of any kind, to L& F Trust, and continuing access to inspect L& F Trust funds, property and assets, including customer or client accounts, wherever they may be located.

IV.

IT IS FURTHER ORDERED that, in addition to the powers, duties and responsibilities as set forth herein, the Receiver shall be authorized, empowered and directed to investigate, prosecute,

defend, intervene in or otherwise participate in, compromise, and adjust actions in any state, federal or foreign court or proceeding of any kind as may in his sole discretion be advisable or proper to recover or conserve funds, assets and property of L& F Trust.

V.

IT IS FURTHER ORDERED that L& F Trust and its officers, directors, employees, agents and counsel shall transfer to the Receiver, as and when directed by him, any and all funds, property, documents or records of L& F Trust, in whatever form, that may be in their possession, custody or control; and that any signatories on any and all L& F Trust accounts at banks, brokerage firms, commodities firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of L& F Trust, shall forthwith take all steps necessary to relinquish their signatory authority as to said accounts including, but not limited to, accounts containing securities or other assets that L& F Trust's customers have transferred, transmitted or otherwise delivered to L& F Trust.

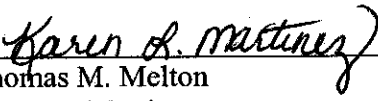
VI.

IT IS FURTHER ORDERED that this Order shall remain in effect and shall supplement all prior Orders of this Court until further Order of this Court. The Court shall retain jurisdiction of this matter for all purposes.

Dated this 15th day of February, 2005


UNITED STATES DISTRICT JUDGE

Respectfully submitted this 14th day of February, 2005



Thomas M. Melton
Karen L. Martinez
Attorney for Plaintiff
Securities and Exchange Commission

CERTIFICATE OF SERVICE

I do hereby certify that on this 14th day February 2005, I caused to be served a true and correct copy of the **PROPOSED ORDER TO EXPAND RECEIVERSHIP** to all persons receiving notice in this case by causing a copy to be delivered by first class mail, postage prepaid to:

Rodney G. Snow, Esq.
J. Scott Hunter, Esq.
Clyde Snow Sessions & Swenson
201 South Main
Suite 1300
Salt Lake City, UT 84111

Ronald K. Bassett
208 North 1150 East
Lindon, UT 84042

Kenneth R. Brown, Esq.
10 West Broadway
Suite 210
Salt Lake City, UT 84101

Bernard J. Barrett, Esq.
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington DC 20581

Robert G. Wing, Esq.
Prince Yeates & Geldzahler
175 East 400 South
Salt Lake City, UT 84111

Alan F. Mecham, Esq.
Mackey Price & Thompson
350 American Plaza II
57 West 200 South
Salt Lake City, UT 84101

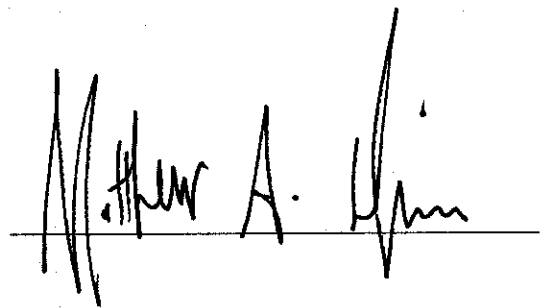
James D. Gilson, Esq.
Callister Nebeker & McCullough
Gateway Tower East
Suite 900
10 East South Temple
Salt Lake City, UT 84133

George R. Hirsch, Esq.
Bressler, Amery & Ross
P.O. Box 1980
Morristown, NJ 07962

Julian D. Jensen, Esq.
311 South State Street
Suite 380
Salt Lake City, UT 84111

David L. Arrington, Esq.
Durham Jones & Pinegar
111 East 400 South
Suite 900
Salt Lake City, UT 84111

John W. Mackey, Esq.
Ray Quinney & Nebeker
36 South State Street
14th Floor
P.O. Box 45385
Salt Lake City, UT 84145-0385

A handwritten signature in black ink, reading "Matthew A. Quinn", is written over a horizontal line. The signature is stylized, with the first name "Matthew" written in a cursive-like script, followed by a period and the last name "Quinn" in a more upright, blocky script.

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00431

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Julian D Jensen, Esq.
311 S STATE ST STE 380
SALT LAKE CITY, UT 84111
JFAX 9,5213731

Mr. Alan F Mecham, Esq.
800 MCINTYRE BLDG
68 S MAIN ST
SALT LAKE CITY, UT 84101
JFAX 9,3632420

James D Gilson, Esq.
CALLISTER NEBEKER & MCCULLOUGH
10 E SOUTH TEMPLE STE 900
SALT LAKE CITY, UT 84133
EMAIL

George R. Hirsch, Esq.
BRESSLEY AMERY & ROSS
PO BOX 1980
MORRISTOWN, NJ 07932
EMAIL

Robert G. Wing, Esq.
PRINCE YEATES & GELDZAHLER
175 E 400 S STE 900
SALT LAKE CITY, UT 84111

Ronald K. Bassett
208 N 1150 E
LINDON, UT 84042
EMAIL

Mr. Rodney G. Snow, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
EMAIL

Mr. Thomas M Melton, Esq.
SECURITIES AND EXCHANGE COMMISSION
15 W SOUTH TEMPLE STE 1800
SALT LAKE CITY, UT 84101
EMAIL

Mr. David L Arrington, Esq.
DURHAM JONES & PINEGAR
111 E BROADWAY STE 900
SALT LAKE CITY, UT 84111
EMAIL

John W. Mackay, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Theodore R. Weckel, USB No. 7111
275 E. South Temple, Suite 301
Salt Lake City, UT 84111
Telephone: (801) 661-2084
Email Address: tweckel@hotmail.com

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 P 12:11
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	ORDER
	:	
vs.	:	2:05-CR-00042-DAK
	:	
EVERADO CARDENAS-OCHOA	:	JUDGE DALE A. KIMBALL
	:	
Defendant.	:	


Having considered Mr. Cardenas-Ochoa's motion for additional time to file a motion to suppress evidence, and for good cause, said motion is hereby GRANTED, and it is hereby ORDERED that Mr. Cardenas-Ochoa shall have until the 28th day of February, 2005, to file any motion in this matter.

BY THE COURT


JUDGE DALE A. KIMBALL

CERTIFICATE OF MAILING

Theodore R. Weckel hereby attests that he served a copy of this Order upon AUSA Karen Foytik by facsimile on the 12th day of February, 2005.


Theodore R. Weckel

blk

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00042

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Theodore R. Weckel, Esq.
275 E S TEMPLE STE 301
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED

CLERK, U. S. DISTRICT COURT

2005 FEB 15 P 12: 11

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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FEB 1 2005

U.S. DISTRICT COURT

Bryan K. Benard (9023)
Amy Poulson (9378)
Holland & Hart LLP
60 E. South Temple, Suite 2000
Salt Lake City, Utah 84111
Tel.: (801) 595-7800
Fax: (801) 364-9124

*Attorneys For Defendant Regis Corp.,
dba Smartstyle Salon and Regis Hairstylists*

IN THE UNITED STATES DISTRICT COURT

VALERIE STUART,

Plaintiff,

V.

REGIS CORP., dba as Smartstyle Salon
and REGIS HAIRSTYLISTS, Kimberly
Christiansen, an individual, and Jane and
John Does I through X, and Doe entities I
through X,

Defendant.

**ORDER GRANTING
STIPULATED EXTENSION OF
TIME FOR DEFENDANT TO
RESPOND TO COMPLAINT**

Case No. 1:05-CV-00016 DAK

Judge: Dale A. Kimball

Plaintiff Valerie Stuart ("Stuart"), by and through her attorney of record, has stipulated to, and granted, an extension of time within which Defendant Regis Corp. dba as Smartstyle Salon and Regis Hairstylists (collectively "Regis") may respond to Stuart's Complaint. Regis' response to the Complaint is presently due on or before February 14, 2005. Plaintiff has agreed that Regis shall have up to and including February 22, 2005.

Based on the parties' stipulation and good cause appearing therefore,

IT IS ORDERED that defendant Regis Corp. shall have up to and including February 22, 2005 to respond to the Complaint filed by Plaintiff.

DATED February 14, 2005.


United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2005, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

William P. Rodgers
The Law Office of Will Rodgers, PC
2550 Washington Blvd.. Suite 320
Ogden, Utah 84401

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

U.S. Mail
Hand Delivered
Overnight Mail
Telecopy (Fax)


for Holland & Hart LLP

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:05-cv-00016

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

William Paul Rodgers, Esq.
2550 WASHINGTON BLVD STE 320
OGDEN, UT 84401

Bryan K. Benard, Esq.
HOLLAND & HART
60 E SOUTH TEMPLE STE 2000
SALT LAKE CITY, UT 84111-1031
EMAIL

RECEIVED CLERK

FEB 11 2005

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 P 12:11

U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

BY: DEPUTY CLERK

AUTOTEL, a Nevada Corporation,
Plaintiff

v.

QWEST CORPORATION, a Colorado Corporation,
THE PUBLIC SERVICE COMMISSION of UTAH,
and RIC CAMPBELL, Chairman, CONSTANCE
B. WHITE, Commissioner and TED BOYER,
Commissioner, in their official capacities as
Commissioners of the Public Service Commission of
Utah,
Defendants.

* CASE NO. 2:04CV01052 DAK

* Appearing on behalf of:

* Plaintiff

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Robert L. Lord, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: February 10, 2005.

Robert L. Lord
Robert L. Lord

Utah State Bar #1994

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Marianne Dugan, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that she is a member in good standing of the bar of the highest court of the State of Oregon; is a non-resident of the State of Utah; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Robert L. Lord as associate local counsel.

Date: February 3, 2005.

Check here ☒ if petitioner is lead counsel.

Marianne Dugan
Marianne Dugan

FEE PAID

Name of Petitioner: Marianne Dugan

Office Telephone: 541-484-4004

(Area Code and Main Office Number)

13

Business Address: Facaros and Dugan
(Firm/Business Name)

485 East 13 Ave.
Street

Eugene
City

OR
State

97401
Zip

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
Oregon Supreme Court	Oregon	1993
U.S. District of Oregon	Oregon	1993
3d Circuit Federal Court of Appeals	3d Circuit	1994
9th Circuit Federal Court of Appeals	9th Circuit	1994
Federal Circuit Court of Appeals	Washington, DC	2004
U.S. Supreme Court	Washington, DC	2001

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
NONE		

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 14th day of February, 2005.



U.S. District Judge

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01052

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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Mr. Sandy J Mooy, Esq.
PUBLIC SERVICE COMMISSION
160 E 300 S 4TH FL
SALT LAKE CITY, UT 84111
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 14 P 6:12

TONY ALEXANDER HAMILTON,

Plaintiff,

v.

RANGER ENTERPRISES,

Defendants.

DISTRICT OF UTAH

BY:

Case No. 2:03-CV-1073 DAK

DEPUTY CLERK

O R D E R

Plaintiff, Tony Alexander Hamilton, an inmate at the Central Utah Correctional Facility, filed a pro se complaint asserting jurisdiction in this Court under 28 U.S.C. § 1331. See 28 U.S.C.A. § 1331 (West 2003). Plaintiff paid the full filing fee and effected service of process upon Defendant. Defendant filed a timely Answer denying all of Plaintiff's substantive allegations and asserting various defenses, including lack of subject matter jurisdiction. Before the Court is Plaintiff's motion for summary judgment, as well as Defendant's jurisdictional challenge.

a. Summary Judgment

Plaintiff has filed a document styled "Petition for Summary Judgment by FRCP Rule 12(c)." (doc. no. 9) Plaintiff's "petition" consists of a single typed page in which he requests "summary judgment on the pleadings" based solely on his assertion that "depositions would be an impossibility" in this case. (Pl.'s Pet. for Summ. J. at 1.) The "petition" references the

Federal Rules of Civil Procedure, but is not accompanied by a memorandum of law, as required under Rule 7-1(b)(1) of the local rules. See Rules of Practice of the United States District Court for the District of Utah. Construing Plaintiff's "petition" as a motion for judgment on the pleadings, the Court concludes that the motion is not only improper in form, but also devoid of substance. Thus, Plaintiff's motion is denied.

b. Jurisdiction

Under Federal Rule of Civil Procedure 12(h)(3) the Court is required to dismiss an action "[w]hensoever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter." Fed. R. Civ. P. 12(h)(3). The party invoking the federal court's jurisdiction bears the burden of proof on the issue. See FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231, 110 S. Ct. 596, 608 (1990).

Although Plaintiff's complaint is difficult to understand, it appears his claims are based on an allegedly illegal seizure and sale by the County of Beaver, Utah, of property formerly owned by a religious organization with which Plaintiff is affiliated. The only relief sought in the complaint is the "conveyance of the property back into the hands of the owner." (Compl. at 12.) Although Plaintiff makes vague allegations against Beaver County officials, the only named defendant in this case is Ranger Enterprises, a Nevada corporation which apparently

purchased the disputed property at a tax sale. While it appears that Defendant is a diverse citizen of Nevada, Plaintiff has not asserted that diversity jurisdiction is proper here, nor has he alleged that the amount in controversy requirement is satisfied.

Plaintiff's complaint asserts that the Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331; which gives district courts original jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." See 28 U.S.C.A. § 1331 (West 2003). Plaintiff has stated the federal question purportedly raised in this case as follows:

WITHOUT THE PROCESS-DUE, (A TRIAL BY THE JURY, BEFORE THE ATTEMPTED CONVEYANCE OF THE PROPERTY), WITHOUT THE AUTHORITY OVER THE PROPERTY (SEPARATION OF THE CHURCH AND THE STATE, BY THE CONSTITUTION FOR THE PEOPLE OF THE united-STATES, AND THE utah-STATE), IN LEGALITY, CAN A FRAUD BE CREATED AGAINST THE PEOPLE OF Vance-Springs, FOR THE PURPOSE OF THE REMOVAL OF THE PEOPLE, AND THE CONFISCATION OR THE PROPERTY FROM THE CHURCH, AND THE PROPERTY BE CONVEYED (WHILE UNDER LITIGATION), BY THE ELECTED-OFFICIALS OF THE COUNTY OF BEAVER, OF THE utah-STATE?

(Compl. at 11-12.)

To qualify for federal question jurisdiction a case must arise under federal law. A case arises under federal law, if its "well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law." Franchise Tax Board v. Construction

Laborers Vacation Trust, 463 U.S. 1, 27-28, 103 S. Ct. 2841, 2856 (1983).

Plaintiff does not assert that his cause of action is created by federal law. From the face of the complaint this suit appears to be an action to quiet title to certain real property sold at public auction by Beaver County. Although Plaintiff vaguely alleges that the seizure and sale of the disputed property violated his due process and free exercise rights, Plaintiff does not purport to state a claim under the Civil Rights Act. See 42 U.S.C.A. § 1983 (West 2003). In addition, Beaver County is not even named as a defendant in this case. Thus, the Court concludes that the Plaintiff's complaint fails to state a cause of action created by federal law.

Plaintiff also has not shown that his right to relief necessarily depends on resolution of a substantial question of federal law. The Supreme Court has held that federal courts should hesitate to exercise jurisdiction where the "cause of action is a subject traditionally relegated to state law." See Merrell Dow Pharmaceuticals Inc. v. Thompson, 478 U.S. 804, 811, 106 S. Ct. 3229, 3229. (1986). Plaintiff's property claim clearly turns on questions of state, not federal, law. According to documents attached to Plaintiff's complaint, the seizure and sale of the disputed property resulted from non-payment of property taxes as required under Utah law. There is no

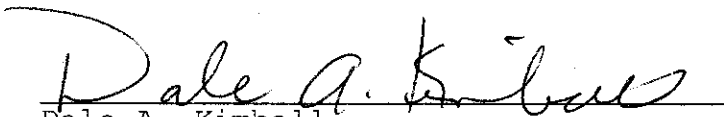
indication that federal law had any bearing on the sale whatsoever. Thus, Plaintiff has not shown that the relief he seeks necessarily depends on resolution of a substantial question of federal law.

After thoroughly reviewing Plaintiff's complaint the Court is unable to identify any basis for exercising jurisdiction in this case. Plaintiff has not established diversity jurisdiction, and the Court finds insufficient grounds to exercise federal question jurisdiction under the "well-pleaded complaint rule."

Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for judgment on the pleadings is **denied**; and, this case is **dismissed** for lack of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3).

DATED this 14th day of February, 2005.

BY THE COURT:


Dale A. Kimball
United States District Judge

blk

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-01073

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

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FILED
CLERK, U.S. DISTRICT COURT

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FEB 11 2005

DISTRICT OF UTAH

U.S. DISTRICT COURT BY: _____
DEPUTY CLERK

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Attorneys for Plaintiff DIRECTV, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

DIRECTV, INC., a California corporation,

Plaintiff,

vs.

McFARLAND, et al.,

Defendants.

**FINAL JUDGMENT
AGAINST JASON McFARLAND**

Civil No. 2:04-CV-00781 DAK

2:03CV781

By Order dated February 9, 2005, this Court granted Plaintiff DIRECTV's Motion for Summary Judgment against defendant Jason McFarland ("McFarland"). In its Motion, DIRECTV sought summary judgment on all its claims against McFarland asserted in the Complaint, including violations of 47 U.S.C. § 605(a), 18 U.S.C. §§ 2511(1)(a) and (b), and 18 U.S.C. § 2512(1)(b).

WHEREFORE, based on the February 9, 2005 Order, the Court finds and enters judgment as follows:

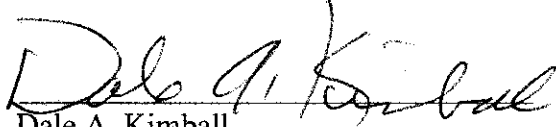
1. As alleged in the Complaint, on or about January 15, 2001, McFarland purchased and used one Pirate Access Device, consisting of a printed circuit board device called an

"Unlooper," from White Viper Technologies. The device was shipped to McFarland at the defendant's address in Eagle Mountain, Utah.

2. The principal design and purpose of such Unloopers is to facilitate the unauthorized interception of DIRECTV's satellite television programming;
3. McFarland knowingly used the device for its intended purpose;
4. McFarland's conduct constitutes one violation of 47 U.S.C. § 605(a).
5. Title 47 U.S.C. § 605(e)(3)(C) provides for statutory damages of not less than \$1,000 or more than \$10,000 for each violation.
6. Judgment is awarded against McFarland and in favor of DIRECTV in the amount of \$10,000.

Dated this 14th day of February 2005.

BY THE COURT


Dale A. Kimball
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February 2005, I caused to be mailed, postage prepaid, a true and correct copy of the foregoing **FINAL JUDGMENT AGAINST JASON McFARLAND** to the following:

Jason McFarland, pro se
3102 East Quail Street
Eagle Mountain, UT 84043

Steven Kuhnhausen, Esq.
10 West Broadway, Suite 603
Salt Lake City, UT 84101



G:\grb\DirecTV\Mcfarland 14251-24\p-Final Judgment(re sum,jdgmt).McFarland.wpd

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00781

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 1:18

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

JOSE DeJESUS MARTINEZ

Defendant.

:

:

:

:

:

**ORDER APPOINTING
INVESTIGATOR**

Case No. 2:04CR00431

UPON APPLICATION OF COUNSEL for defendant Jose DeJesus Martinez and the concurrence of the government the Court finds that the services of the below-named individual appointed as an investigator is reasonably necessary to provide effective assistance to the accused herein; that the accused has been previously found to be impecunious; and, that the estimate of costs for the services of said investigator will likely exceed the maximum amount of \$1,600.00.

Therefore, it is hereby ORDERED AND DECREED:


1. Jeremy Delicino is hereby appointed as an investigator in the above-captioned matter to deal with the wiretap data in conjunction with possible suppression issues.
2. The maximum amount of \$1600 will likely be exceeded; and such excess is approved, and thereby certified to the Chief Judge of the Tenth Circuit Court of Appeals, or her designee, for

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Circuit approval. The costs shall not exceed the estimated amount of \$3000 without prior, written approval of the Court.

DATED this 14th day of February, 2005.

BY THE COURT:


DALE A. KIMBALL
United States District Court Judge

Approve as to
form and content:


CLARK A. HARMS
Special Assistant U.S. Attorney

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00431

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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United States Marshal Service
DISTRICT OF UTAH

EMAIL

US Probation
DISTRICT OF UTAH

/
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 14 P 1:18

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

BY: DEPUTY CLERK

JON C. MARTINSON,

Plaintiff,

v.

FORTIS BENEFITS INSURANCE
COMPANY,

Defendant.

ORDER

Case No. 2:04 CV 560 DAK

This matter is before the court on (1) Plaintiff's Motion for Judgment on the Administrative Record or, in the Alternative, for Summary Judgment, and (2) Defendant's Cross-Motion for Summary Judgment. A hearing on the motions was held on January 13, 2005. At the hearing, Jon C. Martinson ("Plaintiff") was represented by Scott M. Peterson of Fabian & Clendenin. Fortis Benefits Insurance Company ("Defendant") was represented by Mark A. Riekhof of Dunn & Dunn. The court has carefully considered all the materials submitted by the parties as well as the law and facts relating to the motions. Now being fully advised, the court renders the following Order.

I. BACKGROUND

The sole issue presented in this case is whether Plaintiff's bipolar affective disorder qualifies as a "mental illness" under his employer's long term disability plan. The policy provides that disability benefits for a mental illness are limited to 24 months. Plaintiff asserts that bipolar disorder

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does not fall within the policy's "mental illness" exclusion, and therefore, Defendant is required to continue paying disability benefits beyond the 24 month period.

Plaintiff is employed as an attorney at the law firm of Fabian and Clendenin. In March of 2002, Mr. Martinson ceased working due to a diagnosis of bipolar disorder. Fabian and Clendenin provided its employees with long-term disability benefits for qualifying employees. The long-term disability benefits are provided through an insurance policy with Defendant. In July of 2002, Defendant accepted liability under the policy to pay disability benefits to Plaintiff, but informed Plaintiff that his bipolar disability was subject to the policy's 24 month limitation for mental illnesses. Defendant ceased paying disability benefits to Plaintiff after 24 months.

Under the heading of "Alcoholism, Drug Addiction, Chemical Dependency, and Mental Illness" the policy states, in relevant part:

We pay only a limited benefit for *periods of disability* for alcoholism, drug addiction, chemical dependency, and *mental illness*. The maximum Benefit Period for all such periods of *disability* is 24 months.

(emphasis in original). The policy defines mental illness as follows:

Mental illness means neurosis, psychoneurosis, psychopathy, psychosis, depression, eating and sleeping disorders, or mental or emotional diseases or disorders of any kind including those caused by chemical imbalance. It does not include dementia, organic brain syndromes, delirium, amnesia syndromes or organic delusional or hallucinogenic syndromes.

II. STANDARD OF REVIEW

This action is governed by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, *et seq.* "[A] denial of benefits challenged under § 1132(a)(1)(B) is to be reviewed

under a *de novo* standard unless the benefit plan gives the administrator or fiduciary discretionary authority to determine eligibility for benefits or to construe the terms of the plan.” *Firestone Tire and Rubber Co. v. Bruch*, 489 U.S. 101, 115 (1989). The parties agree that the plan in this case does not grant any discretion to Defendant to interpret the terms of the plan, and therefore, the proper standard of review is *de novo*.

Plaintiff argues that the court should not be reviewing this matter under a summary judgment standard, but rather, as a review of the administrative record as suggested by the Sixth Circuit in *Wilkins v. Baptist Healthcare System, Inc.*, 150 F.3d 609 (6th Cir. 1998). The Tenth Circuit has never adopted the Sixth Circuit’s approach and continues to review ERISA cases under a summary judgment standard without addressing the propriety of the Sixth Circuit’s approach. *See Fought v. UNUM Life Ins. Co.*, 379 F.3d 997 (10th Cir. 2004) (en banc) (reviewing an ERISA plan’s denial of long-term disability benefits under a summary judgment standard). Moreover, at the hearing, Plaintiff’s counsel acknowledged that reviewing these motions under the standards set for in *Wilkins*, as opposed to a summary judgment standard, would not affect the outcome of this case. Regardless of whether the Sixth Circuit’s approach has merit, this court does not believe it would be appropriate to adopt the guidelines suggested in *Wilkins* until instructed to do so by the Tenth Circuit. *See Stryker v. Continental Cas. Co.*, 2002 WL 1821907, *7 n.5 (S.D. Ind. May 21, 2002) (“Although the Court believes that the Sixth’s Circuit’s position has merit for the reasons given in *Wilkins*, the Court also believes that it would be presumptuous for this Court to adopt the Sixth Circuit’s position until the Seventh Circuit does so, especially when there is ample case law in which the Seventh Circuit has reviewed a district court’s grant of summary judgment without commenting on the impropriety

of using Rule 56 to resolve a claim of wrongful termination of ERISA disability benefits.”).

III. DISCUSSION

Plaintiff argues that the policy’s definition of “mental illness” is ambiguous and therefore must be interpreted in favor of coverage for Plaintiff. Plaintiff’s brief erroneously states that “[i]n *Kimber v. Thiokol Corp.*, 196 F.3d 1092, 1100 (10th Cir. 1999) the Tenth Circuit held that the doctrine of contra proferentem applies in an ERISA case when the standard of review is *de novo*.”

The actual holding in *Kimber* was “that when . . . the standard of review is arbitrary and capricious, the doctrine of contra proferentem is inapplicable.” *Id.* It is true the Tenth Circuit acknowledged that other courts have applied contra proferentem when the standard of review is *de novo*, but the Tenth Circuit clearly stated that the applicability of contra proferentem in the context of *de novo* review “is a separate question which we do not address here.” *Id.* at 1101. Contrary to the assertions in Plaintiff’s briefs, it would appear that the Tenth Circuit has not directly addressed the issue of whether contra proferentem applies in an ERISA case when the standard of review is *de novo*.

This court need not resolve the contra proferentem issue unless the term “mental illness” is determined to be ambiguous with respect to Plaintiff’s bipolar disorder. *See Chiles v. Ceridian Corp.*, 95 F.3d 1505, 1511 (10th Cir. 1996) (“In interpreting the terms of an ERISA plan we examine the plan documents as a whole and, if unambiguous, we construe them as a matter of law.”). Plaintiff acknowledges that numerous courts have held that the term mental illness is unambiguous with respect to conditions similar to bipolar disorder, but argues that those policies did not include detailed definitions of mental illness like the policy in this case. *See Johnson v. General American*

Life Ins. Co., 178 F. Supp. 2d 644, 654-57 (W.D. Virginia 2001) (discussing the numerous cases dealing with whether the term “mental illness” is ambiguous). Plaintiff’s argument is somewhat peculiar because he concedes that if the policy just stated “mental illness,” without providing a definition, then the exclusion would likely cover his bipolar disorder. However, since the policy allegedly does a poor job of defining “mental illness,” and the definition never uses the term “bipolar,” Plaintiff asserts there is ambiguity.

An ERISA plan should be interpreted by “giving the language its common and ordinary meaning as a reasonable person in the position of the [plan] participant, not the actual participant, would have understood the words to mean.” *Chiles*, 95 F.3d at 1511 (quoting *Blair v Metropolitan Life Ins. Co.*, 974 F.2d 1219, 1221 (10th Cir. 1992)). The policy’s definition of mental illness begins with a broad statement that includes “depression” as well as “. . . mental or emotional diseases or disorders of any kind including those caused by chemical imbalance.” The second sentence of the definition then lists several conditions that are not subject to the policy’s mental illness exclusion such as dementia, organic brain syndromes, delirium, and amnesia. The term “bipolar” is not specifically mentioned in the definition.

Plaintiff attempts to demonstrate ambiguity in the definition by engaging in a very complex argument about the causes and true nature of bipolar disorder. Plaintiff’s psychiatrist, Dr. Noel Gardner, submitted letters to Defendant arguing that bipolar disorder is not a mental illness, but a “neurobiological disorder that affects the physical structures of the brain.” Dr. Gardner’s letters attempt to demonstrate some of the etiological similarities between bipolar disorder and the disorders not subject to the 24 month limitation set forth in the second sentence of the mental illness

definition. Dr. Gardner claims there is no medical basis for distinguishing bipolar disorder from the disorders listed in the second sentence of the mental illness definition, and therefore, the definition is confusing and ambiguous.

Plaintiff's arguments about the etiology of bipolar disorder run afoul of the requirement that the policy language be interpreted in a way that a reasonable lay person would understand the words to mean. Dr. Gardner's criticisms of the policy's mental illness definition originate from the mistaken assumption that the definition attempts to classify disorders by their etiology. The court does not believe it is appropriate to interpret the policy's use of the term "mental illness" based solely upon the cause and origin of a particular disorder. The court is mindful of the concerns expressed by the court in *Johnson*:

[A] great many "mental illnesses" are now traceable, at least in part, to chemical imbalances and other underlying physiological conditions. That other mental illnesses may not be traceable to physiological conditions I suspect is less due to the metaphysical nature of those particular mental illnesses than it is due to current lack of medical knowledge. To say that an illness is not "mental" because it has an identifiable physical cause would narrow the term "mental illness" to an absurdly low number of conditions about which scientists do not currently have any physiological understanding. The number of such illnesses, in turn, would steadily dwindle with advances in research. If the definition of "mental illness" depends upon etiology, mental illness could never represent a calculable insurance risk, or be used correctly for very long in common discourse.

Johnson, 178 F. Supp. 2d at 657.

The second sentence of the policy's mental illness definition simply lists specific disorders, that although they may normally fall under the broad definition contained in the first sentence, are

not subject to the 24 month limitation. Plaintiff does not claim to suffer from any of the disorders listed in the second sentence of the definition (i.e. "dementia, organic brain syndromes, delirium, amnesia syndromes or organic delusional or hallucinogenic syndromes"). Therefore, the only question is whether a reasonable plan participant would understand bipolar disorder to fall within the classification of "depression" or other "mental or emotional diseases or disorders of any kind including those caused by chemical imbalance" that is contained in the first sentence of the definition.

The court holds that the term "mental illness," as used and defined by the policy, is not ambiguous with respect to Plaintiff's bipolar disorder. The court believes that a reasonable plan participant would understand bipolar disorder, also known as manic-depressive illness, to fall within the classification of "depression" or other "mental or emotional diseases or disorders of any kind including those caused by chemical imbalance." Accordingly, Plaintiff's bipolar disorder is subject to the policy's 24 month limitation for mental illnesses.

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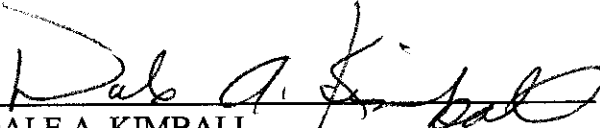
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IV. CONCLUSION

Based upon the foregoing, IT IS HEREBY ORDERED Plaintiff's Motion for Judgment on the Administrative Record or, in the Alternative, for Summary Judgment is DENIED. Defendant's Cross-Motion for Summary Judgment is GRANTED. This case is dismissed with prejudice in its entirety, each party to bear its own costs. The Clerk of the Court is directed to enter judgment accordingly.

DATED this 14th day of February, 2005.

BY THE COURT:


DALE A. KIMBALL
United States District Judge

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00560

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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DISTRICT OF UTAH
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FEB 11 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROSE M. GODDARD,

Defendant.

ORDER TO CONTINUE TRIAL

Case No. 2:04CR-776TS

Based on the motion to continue trial filed by Defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the trial previously scheduled to begin February 22, 2005, is hereby continued to the 4 day of May, 2005, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant in a speedy trial. Accordingly, the time between the date of this order and the new trial date set forth in paragraph one above is excluded from speedy trial computation.

DATED this 15th day of February, 2005.

BY THE COURT:

HONORABLE TED STEWART
United States District Court Judge

20

jmr

United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00776

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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Attorneys for Defendants

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2005 FEB 15 P 12:05
DISTRICT OF UTAH
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

TON SERVICES, INC., a Utah corporation,

Plaintiff,

vs.

QWEST CORPORATION, a Colorado
corporation, QWEST COMMUNICATIONS
CORPORATION, a Delaware corporation, and
UNIDENTIFIED CORPORATIONS I-X,

Defendants.

**ORDER GRANTING JOINT
STIPULATION AND MOTION TO
VACATE FEBRUARY 16, 2005
HEARING ON QWEST'S MOTION TO
DISMISS AND FOR EXTENSION OF
TIME TO FILE RESPONSIVE
PLEADING TO AMENDED
COMPLAINT**

Civil No. 1:04CV00035

Judge Ted Stewart

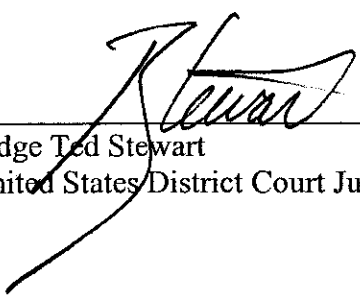
Based on the joint stipulation and motion of the parties, and good cause appearing
therefor;

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IT IS HEREBY ORDERED that the hearing currently set for February 16, 2005 is vacated and Qwest shall have until March 21, 2005, in which to file a responsive pleading to the Amended Complaint.


DATED this 14th day of February, 2005.

BY THE COURT:



Judge Ted Stewart
United States District Court Judge

Approved as to form: ,



Jonathan A. Dibble
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February, 2005, I caused a true and correct copy of the foregoing ORDER GRANTING JOINT STIPULATION AND MOTION TO VACATE FEBRUARY 16, 2005 HEARING ON QWEST'S MOTION TO DISMISS AND FOR EXTENSION OF TIME TO FILE RESPONSIVE PLEADING TO AMENDED COMPLAINT to be served in the following manner upon the following recipients:

☐ HAND DELIVERY
☒ U.S. MAIL (postage prepaid)
☐ OVERNIGHT COURIER
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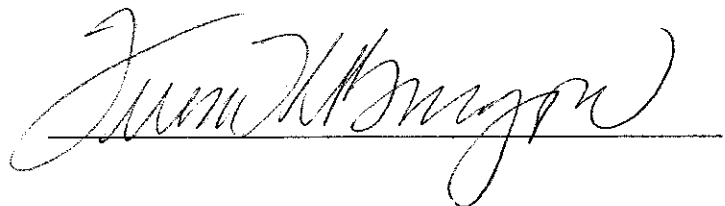
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Arnold & Porter LLP
1600 Tysons Blvd., Suite 900
McLean, VA 22102



United States District Court
for the
District of Utah
February 15, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00035

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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